

Table of Contents

Agenda	4
II-3. Preliminary Estimates.	
NTBA PE CC 08-23-16 Cheryl's Hollow 2nd Add.	10
PEsforCC_08-23-16.	15
II-4. Deeds and Easements.	
Deeds and Easements for August 23rd.	20
II-5a. Community Events - Midian Shriners Car Show. (District VI)	
Agenda Report No. II-5a	21
II-6a. Design Agreement for Paving Improvements to Serve Sandcrest Addition. (District V)	
Agenda Report No. II-6a	22
Sandcrest Agreement.	23
II-6b. Contract for Plumbing Repair On-Call Services.	
Agenda Report No. II-6b	40
Contract for Plumbing Repair On-Call Services.	41
II-7a. Change Order No. 1 for Paving, Sanitary Sewer, and Waterline to Serve Southwest Industrial Addition. (District IV)	
Agenda Report No. II-7a	50
Change Order.	51
II-9. Approval of Offers for the 143rd East– Kellogg to Central Improvement Project. (District II)	
Agenda Report No. II-9	53
Approval of Offers for the 143rd ? Kellogg to Central Improvement Project (District II).	54
II-10. Golf Cart Purchases.	
Agenda Report No. II-10	55
Quote	57
II-11. HOME CHDO Operating Support Funding. (Districts I, III, and VI)	
Agenda Report No. II-11	59
SuppDoc Power CDC OPR 2016-2017 August 23 2016	60
SuppDoc 2016-2017 MHRS CHDO Operating Funding	80
II-12. Over-Estimate Bid and Funding for Pawnee from Hydraulic to Grove. (District III)	
Agenda Report No. II-12	100
Supporting Document.	101
Resolution No. 16229-	112
Amending NOI 16-229	115
Resolution No. 16-230	116
Reducing NOI 16-230.	119
II-13. HOME Program: Housing Development Loan Program Allocation, Ross Parkway Apartments, Inc. (District I)	
Agenda Report No. II-13	120

SuppDoc 2016 HDLP Ross Parkway 8-23-2016 VII	122
II-14. 2017 Drug Enforcement Administration (DEA) State and Local Task Force.	
Agenda Report No. II-14	154
II-15. Amendment of Contract for Labor Negotiation Consultant for Legal Services .	
Agenda Report No. II-15	155
MVP Contract.	156
II-16. MAPC/MAPD Interlocal Agreement and Joint Ordinance/Resolution.	
Agenda Item No. II -16	158
Interlocal Agreement	159
Joint Ordinance No. 50-313.	168
II-17. Second Reading Ordinances.	
Second Reading Ordinances for August 23.	172
II-18. *SUB2015-00019 -- Plat of Sisters of St. Joseph 7th Addition Located North of East Harry Street, East of South Hillside Avenue. (District III)	
Agenda Report No. II-18	173
Supporting Documents	175
Ordinance No. 50-309.	179
II-19. *ZON2016-00025 – Zone Change from SF-5 Single- Family Residential to TF-3 Two-Family Residential, Generally Located on the Southeast Corner of West 2nd Street North and North Baehr Street. (District VI)	
Agenda Report No. II-19	180
Ordinance No. 50-310.	182
ZON2016-00025 Background Information.	183
II-20. *ZON2016-00029 – Zone Change from SF-5 Single- Family Residential to TF-3 Two-Family Residential, Generally Located North of West 55th Street South and East of Seneca Street. (District IV)	
Agenda Report No. II-20	189
Ordinance No. 50-311.	191
ZON2016-00029 Background Information	192
II-21. *ZON2016-00031 – Zone Change from SF-5 Single- Family Residential to MF-18 Multi-Family Residential, Generally Located at the Northwest Corner of West 2nd Street North and North Elizabeth Street. (District VI)	
Agenda Report No. II-21	196
Ordinance No. 50-312.	198
ZON2016-00031 Background Information	199
II-22. *VAC2016-00017 - Request to Vacate a Portion of Platted Complete Access Control on Property Generally Located on the Southwest Side of East 21st Street North and East Kansas Highway K-96. (District II)	
Agenda Report No. II-22	203
Vacation Order	205

II-23. *VAC2016-00019 - Request to Vacate a Portion of a
Platted Front Building Setback on Property Generally Located
North of South Interstate Highway I-135 on the Southeast
Corner of East Industrial Avenue and South Hydraulic Avenue.
(District III)

Agenda Report No. II-23 207

Vacation Order 210

II-24. *VAC2016-00027 - Request to Vacate Easements
Dedicated by Separate Instruments on Property Generally
Located Northwest of East Kellogg Street and South
Washington Avenue, on the West Side of the Vacated South
Eldora Street. (District I)

Agenda Report No. II-24 212

Vacation Order 215

CITY COUNCIL
CITY OF WICHITA
KANSAS

City Council Meeting
08:30 a.m. August 23, 2016

First Floor Board Room
455 North Main

OPENING OF THE SPECIAL CONSENT MEETING/WORKSHOP

- Call to Order
- Approve the minutes of regular meeting on August 16, 2016

II. CONSENT AGENDA ITEMS 1 THROUGH 24

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)

COUNCIL AGENDA

VIII. COUNCIL MEMBER AGENDA

1. Approval of travel for Council Member Janet Miller to participate in a panel discussion at the Health Impact Assessment Training Conference, August 30, 2016, Kansas City, Missouri.

RECOMMENDED ACTION: Approve the travel.

IX. COUNCIL MEMBER APPOINTMENTS AND COMMENTS

1. Board Appointments.

RECOMMENDED ACTION: Approve the appointments.

Adjournment

*****WORKSHOP TO FOLLOW *****

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 24)

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Report of Board of Bids and Contracts dated August 22, 2016.

RECOMMENDED ACTION: Receive and file report; approve the contracts; and authorize the necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renew</u>	<u>2016</u>	<u>(Consumption on Premises)</u>
Joseph T. Weber	Club Billiards**	925 W. Douglas Ave.
<u>New</u>	<u>2016</u>	<u>(Consumption off Premises)</u>
Rupan Kanti Dev.	Convenience Mart***	2199 N. Woodlawn

**General/Restaurant (need 50% or more gross revenue from sale of food)

***Retailer (Grocery stores, convenience stores, etc.)

RECOMMENDED ACTION: Approve licenses subject to staff review and approval.

3. Preliminary Estimates:

- a. List of Preliminary Estimates.

RECOMMENDED ACTION: Receive and file.

4. Deeds and Easements:

- a. List of Deeds and Easements.

RECOMMENDED ACTION: Accept the documents.

5. Consideration of Street Closures/Uses:

- a. Community Events - Midian Shriners Car Show. (District VI)

RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

6. Agreements/Contracts:

- a. Design Agreement for Paving Improvements to Serve Sandcrest Addition. (District V)
- b. Contract for Plumbing Repair On-Call Services.

RECOMMENDED ACTION: Approve the agreements/contracts and authorize the necessary signatures.

7. Change Orders:

- a. Change Order No. 1 for Paving, Sanitary Sewer, and Waterline to Serve Southwest Industrial Addition. (District IV)

RECOMMENDED ACTION: Approve the change orders and authorize the necessary signatures.

8. Minutes of Advisory Boards/Commissions:

- Board of Park Commissioners, July 11, 2016
- Library Board of Directors, July 19, 2016
- Board of Electrical Appeals, July 12, 2016

RECOMMENDED ACTION: Receive and file.

9. Approval of Offers for the 143rd East– Kellogg to Central Improvement Project. (District II)

RECOMMENDED ACTION: Approve the offers and authorize the necessary signatures.

10. Golf Cart Purchases.

RECOMMENDED ACTION: Accept the quote, authorize the selection of Yamaha as the vendor, approve any necessary budget transfers and authorize the necessary signatures.

11. HOME CHDO Operating Support Funding. (Districts I, III, and VI)

RECOMMENDED ACTION: Approve the recommended allocations and the funding agreements and authorize the necessary signatures.

12. Over-Estimate Bid and Funding for Pawnee from Hydraulic to Grove. (District III)

RECOMMENDED ACTION: Approve the revised budget, approve acceptance of the lowest bid, waive City Council Policy No. 2 regarding the use of project savings to allow the transfer of funds, adopt the amending resolutions, and authorize the necessary signatures.

13. HOME Program: Housing Development Loan Program Allocation, Ross Parkway Apartments, Inc. (District I)

RECOMMENDED ACTION: Approve the HOME Program funding allocation and authorize the necessary signatures.

14. 2017 Drug Enforcement Administration (DEA) State and Local Task Force.

RECOMMENDED ACTION: Approve continued annual participation in DEA State and Local Task Forces and approve the budget for the fiscal year beginning October 1, 2016. The approval would authorize the Chief of Police to sign the agreement.

15. Amendment of Contract for Labor Negotiation Consultant for Legal Services.

RECOMMENDED ACTION: Approve the contract, authorize the Mayor to sign, and approve any necessary budget adjustments.

16. MAPC/MAPD Interlocal Agreement and Joint Ordinance/Resolution.

RECOMMENDED ACTION: Approve the agreement and joint ordinance/resolution and authorize the necessary signatures.

17. Second Reading Ordinances: (First Read August 16, 2016)

RECOMMENDED ACTION: Adopt the Ordinances.

II. CONSENT PLANNING AGENDA ITEMS

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

18. *SUB2015-00019 -- Plat of Sisters of St. Joseph 7th Addition Located North of East Harry Street, East of South Hillside Avenue. (District III)

RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures and place the Ordinance on first reading. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

19. *ZON2016-00025 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located on the Southeast Corner of West 2nd Street North and North Baehr Street. (District VI)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

20. *ZON2016-00029 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located North of West 55th Street South and East of Seneca Street. (District IV)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first ready, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

21. *ZON2016-00031 – Zone Change from SF-5 Single-Family Residential to MF-18 Multi-Family Residential, Generally Located at the Northwest Corner of West 2nd Street North and North Elizabeth Street. (District VI)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first ready, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

22. *VAC2016-00017 - Request to Vacate a Portion of Platted Complete Access Control on Property Generally Located on the Southwest Side of East 21st Street North and East Kansas Highway K-96. (District II)

RECOMMENDED ACTION: Approve the Vacation Order (simple majority of four votes required) and authorize the necessary signatures.

23. *VAC2016-00019 - Request to Vacate a Portion of a Platted Front Building Setback on Property Generally Located North of South Interstate Highway I-135 on the Southeast Corner of East Industrial Avenue and South Hydraulic Avenue. (District III)

RECOMMENDED ACTION: Approve the Vacation Order (simple majority of four votes required) and authorize the necessary signatures.

24. *VAC2016-00027 - Request to Vacate Easements Dedicated by Separate Instruments on Property Generally Located Northwest of East Kellogg Street and South Washington Avenue, on the West Side of the Vacated South Eldora Street. (District I)

RECOMMENDED ACTION: Approve the Vacation Order (simple majority of four votes required) and authorize the necessary signatures.

II. CONSENT HOUSING AGENDA ITEMS

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Andra Martin, Housing Member is also seated with the City Council.

None

II. CONSENT AIRPORT AGENDA ITEMS

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

None

THE CITY OF WICHITA
Department of Public Works

Wichita, Kansas

**NOT TO BE ADVERTISED
PRELIMINARY ESTIMATES
FOR CITY COUNCIL AUGUST 23, 2016**

PRELIMINARY ESTIMATE of the cost of sewer improvements to serve Cheryl's Hollow 2nd Addition, north of 13th Street North, west of 135th Street West. (District V) (468-84189/744416/480108) – Total Estimated Cost \$67,980.

To the City Council
Wichita, Kansas

Date of CC 08/23/2016
(OCA/PROJ) 744416/468-84189
(PPN) 480-108

THIS PROJECT IS NOT TO BE ADVERTISED FOR BIDS

PRELIMINARY ESTIMATE of the cost of sewer improvements to serve Cheryl's Hollow 2nd Addition, north of 13th Street North, west of 135th Street West (District V).

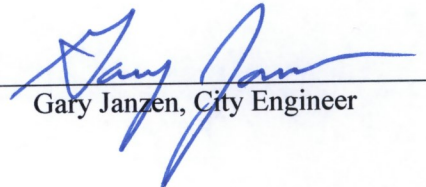
All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

Total Estimated Cost

\$67,980

CITY OF WICHITA
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.



Gary Janzen, City Engineer

Sworn to and subscribed before me this _____ day of _____, 2016.

City Clerk

PRELIMINARY ESTIMATE of the cost of sewer improvements to serve Cheryl's Hollow 2nd Addition, north of 13th Street North, west of 135th Street West. (District V) (468-84189/744416/480108) – Total Estimated Cost \$67,980.

Page _____

Exhibit _____

Required fields in blue.

Page	Page 7	
Publication Date	TO BE PUBLISHED ONE TIME ON JULY 27, 2016	
Bid Date (write out)	August 5, 2016	
Award Date (write out)	September 6, 2016	
OCA	(744416)	
PPN	480108	
Engr Project #	468-84189	Assoc. Proj #'s: TIED w/
CC District (Roman Numeral)	District V	448-90198
Lineal Feet	1,032	
Type	SEWER	
Sub-type		
Number of Addenda		
Our Engineer (initials only)	JK	
Consultant (Design Firm):	Ruggles & Bohm	
FB#	FB	
RQ#	RQ	
LS MQ	LS/MQ	
Short Name (no abbreviations)	Lateral 9, Main 4, Northwest Interceptor Sewer	
Description (complete)	Lateral 9, Main 4, Northwest Interceptor Sewer to serve Cheryl's Hollow 2nd Addition	
Description continued	(north of 13th Street North, west of 135th Street West)	
Description continued		
Description continued		
Addition	Cheryl's Hollow 2nd Addition	
Location (in parenthesis)	(north of 13th Street North, west of 135th Street West)	
Fund Source	100% SA	
CC Proj Approval:	07/12/16	
Resolution/Ordinance Date:	07/12/16	
Budget Allocation	\$66,000.00	
Working Days or Completion Date	20 (twenty) total for both projects	Proj/OCA #: Res/Ord Amt PE Amt
Start Days ex: 20 (twenty) or date	20 (twenty)	P -
WO Date		W -
Special WO Info	NA	SS -
Driveway Req Forms	NA	SWS -
Traffic statement for PE	Does not affect existing traffic	
Constr. Survey By: (City, Contr. or Consult)	City	
Inspected By: (City or Consultant)	City	
PE AMOUNT	\$67,980.00	Crawl date 5-6-16
ENGINEER'S ESTIMATE	\$50,130.00	Use 3 months crawl for OVER ESTIMATE adjustment
CONTRACT AMOUNT		\$66,000 + 1,980 = \$67,980
CONTRACTOR NAME		
Contractor Address (street)		
Contractor Address (box #)		
Contractor Address (city state)		
PO #		
AREA ENGINEER	Degenhardt	
QUAD	NW	
TAX EXEMPT #		

Line #	Bid Item Description	Quantity	UM	Unit Price	Extension
LUMP SUM BID ITEMS (744416) - Group 2					
1	Grading, Easement	1	LS	642.00	642.00
2	Seeding	1	LS	500.00	500.00
3	Site Clearing	1	LS	500.00	500.00
4	Site Restoration	1	LS	3,608.00	3,608.00
MEASURED QUANTITY BID ITEMS (744416) - Group 2					
5	Pipe, SS 8"	1,032	lf	18.00	18,576.00
6	Air Testing, SS Pipe	1,032	lf	1.00	1,032.00
7	MH, SS Standard (4')	3	ea	3,300.00	9,900.00
8	MH, SS Shallow (4')	3	ea	3,000.00	9,000.00
9	MH Adjusted	1	ea	750.00	750.00
10	Riser Pipe Assembly (4")	4	ea	800.00	3,200.00
11	Fill, Sand (Flushed & Vibrated)	40	lf	25.00	1,000.00
12	BMP, Silt Fence	622	lf	1.00	622.00
13	BMP, Construction Entrance	1	ea	800.00	800.00

Construction Subtotal

\$50,130.00 OVER ESTIMATE ADJUSTMENT

Design Fee	5,100.00
Engineering & Inspection	10,026.00
Administration	1,923.00
Publication	200.00
Water Dept	0.00
Contingency	601.00

Total Estimated Cost

\$67,980.00 3 months crawl added for OVER ES

**PRELIMINARY ESTIMATES
FOR CITY COUNCIL AUGUST 23, 2016**

- a. 2016 Sanitary Sewer Reconstruction Phase 5 (north of Pawnee, east of Hydraulic) (468-85109/620843/666005) Traffic to be maintained during construction using flagpersons and barricades. (District I,III) - \$499,000.00
- b. Sunflower Drive from the west line of Clifton Avenue, south, west, and south to the north line of Aster Street; on Aster Street from the south line of Sunflower Drive south to the south line of Lot 8, Block C; on Aster Street from the south line of Sunflower Drive south to the south line of Lot 8, Block B; and on Vassar Avenue from the south line of Sunflower Drive, south to the south line of the plat, including a hammerhead turnaround, with drainage to be installed where necessary to serve Vassar Addition (south of 63rd Street South, west of Clifton) (472-85256/766359/490382) Does not affect existing traffic. (District III) - \$288,000.00
- c. Morris Circle from the west right-of-way of Morris to and including cul-de-sac; and Andrews Circle from the south right-of-way of Watson to and including cul-de-sac to serve Clear Creek and Clear Creek 2nd Addition (south of Kellogg, west of 143rd Street East) (472-83744/766367/490390) Does not affect existing traffic. (District II) - \$231,000.00
- d. Turning Lanes on 29th Street North with drainage to be installed where necessary to serve Cadillac Lake Addition (south of 29th Street North, east of Maize) (472-85234/766352/490374) Does not affect existing traffic. (District V) - \$160,000.00

PRELIMINARY ESTIMATE of the cost of:
 2016 Sanitary Sewer Reconstruction Phase 5
 (north of Pawnee, east of Hydraulic)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

LUMP SUM BID ITEMS

1	MH Rehabilitated	1	ea
2	MH Rehabilitated (in pavement)	2	ea
3	MH Frame & Cover Replaced (in pvmt) (incl repl of 12" below frame)	2	ea
4	MH Bench & Invert Removed & Replaced (Maps 1, 2 & 3)	6	ea
5	MH Bench & Invert Rem & Repl (Map 4)	1	ea
6	MH, Rehab Liner (Maps 1, 2 & 3)	6	ea
7	MH, Rehab Liner (Map 4)	1	ea
8	MH Adjusted with New Ring & Cover	1	ea
9	Point Repair	1	LS
10	Site Clearing	1	LS
11	Site Restoration	1	LS

MEASURED QUANTITY BID ITEMS

12	BMP, Construction Entrance	1	ea
13	BMP, Silt Fence	20	lf
14	BMP, Erosion Control Mat	10	sy
15	BMP, Back of Curb Protection	20	lf
16	BMP, Curb Inlet Protection	1	ea

Construction Subtotal

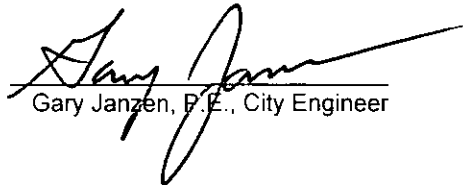
Engineering & Inspection
 Administration
 Publication

Total Estimated Cost

\$499,000.00

CITY OF WICHITA)
 STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.


 Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this _____
 (DATE)

666005 (620843) 468-85109
Page

 City Clerk

EXHIBIT

PRELIMINARY ESTIMATE of the cost of:

Sunflower Drive from the west line of Clifton Avenue, south, west, and south to the north line of Aster Street; on Aster Street from the south line of Sunflower Drive south to the south line of Lot 8, Block C; on Aster Street from the south line of Sunflower Drive south to the south line of Lot 8, Block B; and on Vassar Avenue from the south line of Sunflower Drive, south to the south line of the plat, including a hammerhead turnaround, with drainage to be installed where necessary to serve Vassar Addition (south of 63rd Street South, west of Clifton)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

LUMP SUM BID ITEMS

1	Excavation	994	cy
2	Maintain Existing BMPs	1	LS
3	Grading, Easement	1	LS
4	Signing	1	LS
5	Seeding	1	LS
6	Site Clearing	1	LS
7	Site Restoration	1	LS

MEASURED QUANTITY BID ITEMS

8	AC Pavement 5" (3" Bit Base)	5,031	sy
9	Crushed Rock Base (5"), Reinforced	6,612	sy
10	Concrete Pavement (VG) 7" (Reinf)	159	sy
11	Concrete C & G, Type 2 (3-5/8" RL & 1-1/2")	3,611	lf
12	Concrete Curb, Mono Edge (6-5/8" & 1-1/2")	118	lf
13	Concrete Flume	1	ea
14	Inlet Adjusted	2	ea
15	Inlet Hookup	2	ea
16	Concrete Driveway 6"	573	sf
17	Crushed Rock Hookup	94	sy
18	Crushed Rock Shoulder	65	lf
19	MH Adjusted, SS	1	ea
20	Valve Box Adjusted	1	ea
21	Inlet Underdrain	44	lf
22	BMP, Back of Curb Protection	3,729	lf
23	BMP, Curb Inlet Protection	4	ea
24	BMP, Silt Fence	130	lf

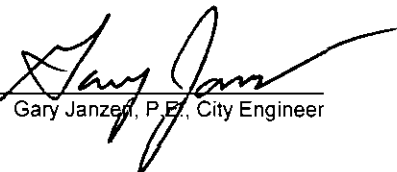
Construction Subtotal

Design Fee
Engineering & Inspection
Administration
Publication
Contingency

Total Estimated Cost**\$288,000.00**

CITY OF WICHITA)
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.


Gary Janzer, P.E., City Engineer

Sworn to and subscribed before me this _____
(DATE)

City Clerk

490382 (766359) 472-85256

Page _____

EXHIBIT _____

PRELIMINARY ESTIMATE of the cost of:

Morris Circle from the west right-of-way of Morris to and including cul-de-sac; and
 Andrews Circle from the south right-of-way of Watson to and including cul-de-sac
 to serve Clear Creek and Clear Creek 2nd Addition
 (south of Kellogg, west of 143rd Street East)

All work done and all materials furnished to be in accordance with plans and specifications
 on file in the office of the City Engineer.

LUMP SUM BID ITEMS

1	Excavation	1,543	cy
2	Compacted Fill (95% Density)	1,320	cy
3	Site Clearing	1	LS
4	Site Restoration	1	LS
5	Project Seeding	1	LS
6	Easement Grading DO NOT BID	0	LS
7	Maintain Existing BMPs	1	LS

MEASURED QUANTITY BID ITEMS

8	AC Pavement 5" (3" Bit Base)	2,165	sy
9	Reinforced Crushed Rock Base (5")	2,710	sy
10	Comb. C & G (3 5/8" RL & 1 1/2")	1,425	lf
11	Pipe, SWS 18"	458	lf
12	Pipe, SWS 24"	405	lf
13	Inlet, Backyard (4')	2	ea
14	Rip-Rap, Light Stone	17	sy
15	BMP, Outlet Protection	1	ea
16	BMP, Inlet Protection	5	ea
17	BMP, Erosion Blanket	1,695	sy
18	Fill, Protective	36	lf
19	Inlet, Backyard (5')	2	ea

Construction Subtotal

Design Fee
 Engineering & Inspection
 Administration
 Publication
 Contingency

Total Estimated Cost\$231,000.00

CITY OF WICHITA)
 STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.


 Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this _____
 (DATE)

 City Clerk

490390 (766367) 472-83744

Page _____

EXHIBIT _____

PRELIMINARY ESTIMATE of the cost of:

Turning Lanes on 29th Street North with drainage to be installed where necessary to serve Cadillac Lake Addition (south of 29th Street North, east of Maize)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

LUMP SUM BID ITEMS

1	Excavation	219	cy
2	Site Clearing	1	LS
3	Site Restoration	1	LS
4	Pavement Markings	1	LS
5	Traffic Control	1	LS
6	Sign, Existing, Removed and Reset	1	LS
7	Seeding, Temporary	1	LS

MEASURED QUANTITY BID ITEMS

8	AC Pavement 7" (5" Bit Base)	179	sy
9	Concrete Pavement (VG) 8" (Reinf)	240	sy
10	Crushed Rock Base 8", Reinforced	437	sy
11	Concrete C & G Removed	372	lf
12	Concrete Curb, Mono Edge (6" & 1-1/2")	133	lf
13	Concrete Ramp Nose Section (Median)	1	ea
14	Concrete Sidewalk Removed	39	sy
15	Wheelchair Ramp w/ Detectable Warnings	2	ea
16	BMP, Back of Curb Protection	133	lf

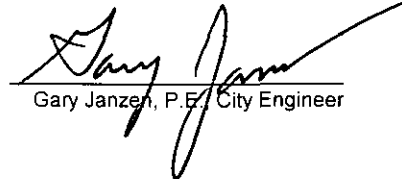
Construction Subtotal

Design Fee
Engineering & Inspection
Administration
Publication
Reserved for Phase 2

Total Estimated Cost\$160,000.00

CITY OF WICHITA)
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.


Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this _____
(DATE)

City Clerk

490374 (766352) 472-85234

Page _____

EXHIBIT _____

Following dedication is for City Council on 8/23/2016

The following dedication needs to be signed:

Waterline Easement from River Vista, LLC, dated August 16, 2016 for tracts of land lying in Lots 1 and 2, Block 2, River Vista, LLC a Kansas limited liability company, Wichita, Sedgwick County, Kansas (No Cost to City)

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: Community Events – Midian Shriners Car Show (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure, the event promoter Dave Pate, Midian Shriners, is coordinating the Midian Shriners Car Show with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Midian Shriners Car Show September 11, 2016 8:00 am – 5:00 pm

- North Topeka Street, Douglas Avenue to Second Street
- East First Street, Broadway Avenue to Topeka Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: This action complies with the ordinance on street closures for community events.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: Design Agreement for Paving Improvements to Serve Sandcrest Addition
(District V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the design agreement.

Background: On June 7, 2016, the City Council approved a petition for paving improvements to serve Sandcrest Addition, which is located south of 29th Street North and east of Hoover Road.

Analysis: The proposed agreement between the City and Baughman Company, P.A. provides for design of the improvements. In accordance with Administrative Regulation 1.10, Baughman Company, P.A. is an engineering consultant upon whom the City and developer mutually agree for this work, and, as this firm provided the preliminary engineering services for the platting of the subdivision, can expedite plan preparation.

Financial Considerations: The design fee for the improvements is \$77,600. Funding is available within the existing budget, approved by the City Council on June 6, 2016 and is funded by special assessments.

Legal Considerations: The design agreement has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council approve the design agreement and authorize the necessary signatures.

Attachment: Design agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

SANDCREST ADDITION, PHASE 1

THIS AGREEMENT, made this _____ day of _____, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN, P.A., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

SANDCREST serving Lots 1 through 35, Block A; Lots 1 through 21, Block B, Sandcrest Addition, Phase 1 (south of 29th Street North, east of Hoover) (Project No. 472-85252_766366);

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Sandcrest Addition, Phase 1 and to perform the project tasks outlined in the SCOPE OF SERVICES (Exhibit "A").

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Exhibit "A".
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Agreement.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY *within the time allotted for the project as stipulated below*; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this Agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this Agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors *in the performance of the professional services rendered under this Agreement*. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this Agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this Agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this Agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. *Written notification shall be provided to the CITY for any changes exceeding one week in length of time.*

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the project now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the project; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit "A".

- C. To pay the ENGINEER for his services in accordance with the requirements of this Agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this Agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this Agreement shall be made on the basis of the not to exceed fee amount specified below:

Project No. 472 85252

\$ 77,600.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the project such as, but not limited to:
 - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the project.
 - 2. Additional design services not covered by the scope of this Agreement.
 - 3. Construction staking, material testing, inspection and administration related to the project.
 - 4. A major change in the scope of services for the project.
 If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this Agreement at any time, upon written notice, in the event the project is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the project shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this Agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the project.
- C. That the services to be performed by the ENGINEER under the terms of this Agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this Agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this Agreement shall be construed to operate as a waiver of any right under this Agreement or any cause of action arising out of the performance of this Agreement.
- G. The rights and remedies of the CITY provided for under this Agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this Agreement, that it is not intended by any of the provisions of any part of this Agreement to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL


Jeff Longwell, Mayor

SEAL:

ATTEST:


Karen Sublett, City Clerk

APPROVED AS TO FORM:



Jennifer Magaña, Director of Law and
City Attorney

BAUGHMAN COMPANY, P.A.



N. Brent Wooten, P.E.
President

EXHIBIT "A"

SCOPE OF SERVICES

Sandcrest Addition
(south of 29th St. N., east of Hoover)
(Project No. 472-85252_766366)

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per Attachment No. 1 to Exhibit "A".

In connection with the services to be provided, the ENGINEER shall:

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the project limits prior to the ENGINEER conducting the field survey for the project. Utility information shall be clearly noted and identified on the plans.
2. Storm Water Pollution Prevention. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".
3. Soils and Foundation Investigations. The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.
4. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. Drainage Study. When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the project. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. Plans & Specifications. Prepare engineering plans, plan quantities and supplemental specifications as required. Pay items of work shall conform to the CITY's Master Bid Item List. Engineering plans will include incidental drainage where required and permanent traffic signing. The project's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1 to Exhibit "A". The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
7. Landscaping. Where landscaping may be required along arterial streets, ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the Consultants' Design Team.

8. Property Acquisition. Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**
9. Utility Coordination. Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**, also available on the City's FTP site) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
10. Staking Information. All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. This coordinate information will be used by the CITY for construction staking purposes. See **Attachment No. 2 to Exhibit "A"** for required coordinate information.
11. Shop Drawings. All shop drawings submitted by the contractor for the project shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the project.
12. Public Meeting. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
13. New Right-of-Way Monumentation. The ENGINEER shall complete permanent monumentation of all new right-of-way, and complete and submit all necessary legal documentation for same.
14. Section Corner Monuments. The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.
15. Permits. The ENGINEER shall prepare any and all necessary permits for this project, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
16. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

Field Check Plans and an estimate for the project due by N/A.

Office Check Plans and an estimate for the project due by August 2016.

Completion of all work required by this Agreement (including submittal of final approved plans, field notes, and related project documents by September 2016.

Attachment No. 1 to Exhibit "A" – Scope of Services

Plan Submittal

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

Storm Water Pollution Prevention

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita
Storm Water Division
455 N. Main 8th Floor
Wichita, KS 67202

THIS INCLUDES ALL PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must also include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate. Bidding erosion control as "1 LS" is not allowed.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-
lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

Attachment No. 2 to Exhibit "A" – CIP Scope of Services

Required Plan Coordinate Information

Arterial Street Projects & Infill (Existing Neighborhoods)

I. SANITARY SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

II. WATER LINE

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

III. STORM SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

IV. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.

Sub-Division Projects

I. SANITARY SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

II. WATER DISTRIBUTION SYSTEM

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

III. WATER SUPPLY LINE

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

IV. STORM SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

V. MASS GRADING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
 - centerline @ 100' Sta on tangent sections
 - pc/pt points & 50' along curves
- special drainage swales
 - pc/pt points, pi's & 50' Sta in between
- ponds
 - any grades breaks between pond bottom and rear property line
 - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

VI. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing.
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- **ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs
- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

Attachment No. 3 to Exhibit "A" – Scope of Services

Project Name

Utility Location Verification Non-CIP Project

Projected Bid Date:

UTILITY: _____ Checked by _____ on _____

Utility Location:

- | | |
|--|---|
| <input type="checkbox"/> None in Project Limits | <input type="checkbox"/> In Project Limits, No Relocation Necessary |
| <input type="checkbox"/> Utility will need to relocate | <input type="checkbox"/> Other (please describe) |

Briefly Describe Type and Location of Facilities within Project:

Estimate Time for Relocation: ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

Weather Sensitive: ☐ Yes ☐ No If yes, please explain: _____

Utility Plan Review:

- ☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

Corrections necessary on plan sheets:

Additional Information requested from Consultant: _____

Please email this form on or before to:

If relocation is necessary:

Estimated clear date: _____

Completed by _____ **(utility representative) on** _____ **(date)**

Upon completion of relocation:

Relocation complete on: _____

Completed by _____ **(utility representative) on** _____ **(date)**

Attachment No.4 to Exhibit "A" - Scope of Services

Individual Project Name (i.e., Amidon, 21st to 29th Street North)											
Contract Date	City Proj. No.	City Design Manager	Contractor	Date of First UDC	Date of Second UDC	Date of Final Relocation Distribution	Second Step Relocation Distribution	U/W Purchased Y/N	Date Utility Notice of Y/N	Project Approved Date	Approved Utility Check Date (Project)
2/21/2013	111111/ 222222	Kathryn	Don Land, Rogers & Son	2/21/2013	1/21/2013			No			
Utility Contract	Utility Notice to Relocate Y/N	Utility in Private Encroachment Y/N	Utility Notice Relocate Y/N	Relocation Weather Sensitivity Y/N	Estimated Date of Utility Design Completion	Time needed for relocation after utility design completion	Individual Utility Clear Date				
Westar (Distribution)											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											
Westar (Transmission)											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											

REGS Location in Project: (Describe Existing Facilities) Relocation Needs: Comments:
Black Hills Location in Project: (Describe Existing Facilities) Relocation Needs: Comments:
AT&T Location in Project: (Describe Existing Facilities) Relocation Needs: Comments:

<p>Out</p> <p>Location in Project: (Describe Existing Facilities)</p> <p>Relocation Needs:</p> <p>Comments:</p> <p>Water:</p> <p>Location in Project: (Describe Existing Facilities)</p> <p>Relocation Needs:</p> <p>Comments:</p>
<p>Sewer</p> <p>Location in Project: (Describe Existing Facilities)</p> <p>Relocation Needs:</p> <p>Comments:</p>

Spillwater Location in Project: (Describe Existing Facilities) Relocation Needs: Comments:
Other Location in Project: (Describe Existing Facilities) Relocation Needs: Comments:

EXHIBIT "B"

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this Agreement, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this Agreement, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City

in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**City of Wichita
City Council Meeting
August 23, 2016**

TO: Mayor and City Council

SUBJECT: Change Order No. 1 for Paving, Sanitary Sewer, and Waterline to Serve Southwest Industrial Addition (District IV)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendations: Approve the change order.

Background: On May 17, 2016, the City Council approved a contract with Mies Construction, Inc. for paving, sanitary sewer, and waterline improvements to serve Southwest Industrial Addition, located north of Pawnee and east of West Street.

Analysis: Final field inspection in preparation for the connection to the existing manholes in Sheridan Street found the manholes deteriorated and in poor condition due to corrosive sewer gas. The manholes require replacement prior to extending new service to the development. The contractor will construct new manholes over the existing 36-inch sewer main and a bypass pump between the new manholes, remove the existing brick manholes, and reconnect the 36-inch sewer pipe into the new manholes. Staff and the contractor will track daily bypass pumping for the final adjustment of budget charges.

Financial Considerations: The cost of the proposed change order is \$90,920, which brings the total contract amount to \$427,619. Funding is available within the existing 2016 Reconstruction or Rehabilitation of Aged Sanitary Sewers (S-4) budget, which was approved by the City Council on November 17, 2015. The project is funded by future revenue bonds or sewer utility cash reserves.

Legal Considerations: The Law Department has reviewed and approved Change Order No. 1 as to form.

Recommendation/Actions: It is recommended that the City Council approve Change Order No. 1 and authorize the necessary signatures.

Attachment: Change Order No. 1.

**CONTRACT
for
PLUMBING REPAIR ON-CALL SERVICES**

BLANKET PURCHASE ORDER NUMBER BP640054

THIS CONTRACT entered into this 23rd day of August, 2016, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **DEAN E. NORRIS, INC.** (Vendor Code Number 807095-001), whose principal office is at 2929 S. Minneapolis, Wichita, Kansas, 67216, Telephone Number (316) 688-1901, hereinafter called "**VENDOR**".

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for **Plumbing Repair On-Call Services** (Formal Proposal – FP640031) [Commodity Code Number 91060]; and

WHEREAS, **VENDOR** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services.** **VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP640031 [Commodity Code Number 91060], which are incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal Number – FP640031, shall be considered a part of this contract and is incorporated by reference herein.

2. **Compensation.** **CITY** agrees to pay to **VENDOR** the following **unit prices** for Plumbing Repair On-Call Services for the Formal Proposal – FP640031 [Commodity Code Number 91060], for Various Departments, Boards and Agencies as shown below as compensation as per the proposal, plans, specifications, addenda and **VENDOR's** proposal of July 8, 2016, and as approved by the City Council on August 23, 2016. **CITY** agrees to pay to **VENDOR**, License #1602, the hourly labor rate of seventy dollars (\$70.00) per man per hour while on the job site and a twenty percent (20%) markup above cost on parts for commercial and residential plumbing services during normal business hours, 8:00 a. m. – 5:00 p.m., Monday through Friday. Heavy equipment rental rates are listed in Exhibit B which is attached as part of this contract.

This hourly rate to include any and all incidental costs such as; per diem, portal to portal and the like. The City of Wichita will pay a standard hourly rate for service calls between 8:00 a. m. and 5:00 p. m., Monday through Friday. The City will pay one and one-half (1½) times the standard hourly rate for service calls after 5:00 p. m. and all day Saturday, Sunday and holidays. The hourly rate will be paid for only the time at the job site (one hour guarantee minimum), no travel time will be paid.

The minimum charge for the service call per location will be the standard hourly labor rate during regular hours and one and one-half (1½) times that rate for the service call after 5:00 p. m., all day Saturday, Sunday and holidays. Service call must include charges such as fuel, trip, mobilization, personal vehicle, service truck and mileage charges.

The contractor shall make such repairs as deemed necessary by the City Departments, Boards and Agencies and the Wichita Housing Authority. Such service will be rendered. Contractor must supply twenty-four (24) hour emergency service, seven (7) days a week including holidays, when needed. The contractor shall remove and dispose of all salvage material (except copper pipe, which is to be returned to the Wichita Housing Authority).

The contractor shall respond to a service request on the same day, if the request is received by 10:00 a.m. or on the next day if service request is received after 10:00 a.m.

Contractor to supply a detailed invoice stating type of work performed for each plumbing repair. Invoices to contain the address where the work was done, the name of the person who authorized the work, number of hours times the contract hourly rate, and a detail of the material used showing quantities of each item, part number, brand name, description and unit cost of each item, date work performed and signed by the City representative at the job site.

CONTRACTOR further agrees that at all times during the prosecution of said improvement **Dean E. Norris, Inc.** will maintain the proper safeguards, barricades and lights on the work and every portion thereof to insure the highest degree of safety to the public, and that **Dean E. Norris, Inc.** will hold the City of Wichita harmless in all suits for damages brought against either of the parties to this contract on account of the negligent acts, omissions or default of said **CONTRACTOR**, their agents or servants in the prosecution of the work on said improvement.

After any and all work herein specified has been completed, the Contractor shall guarantee their work to be free from defects for a period of one year. Such defects shall apply to faulty materials and workmanship. In the event of the development of said defects, the Contractors shall remedy the failure at their expense within a reasonable time after the notice. All plumbing equipment shall be guaranteed by the manufacturer's warranty.

3. Term. The term of this contract shall be effective from **September 1, 2016 through August 31, 2017**, with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of the parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR**.

4. Indemnification and Insurance.

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons, property or other liability loss arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **CONTRACTOR** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Commercial General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
-------------------------	---

Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
---------------------------	---

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate
---	---

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident
---	-------------------------

3. Workers' Compensation

Statutory

Employers Liability

\$100,000 Each Accident

\$500,000 Aggregate

\$100,000 Occupational Disease

The Insurance Certificate must contain the following:

The City of Wichita shall be added as primary and non-contributory additional insured. The policy shall also provide coverage for contractor's/vendor's contractual obligations created in the Agreement. Coverage shall be the greater of the requirements stated here or the contractor's existing policy.

5. **Independent Contractor.** The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

6. **Compliance with Laws.** **VENDOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. **No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the **CITY**.

8. **Non-Discrimination.** **VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment/Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create in the public or any member thereof the rights of a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration.** The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas. The parties agree that this contract has been created in Kansas.

12. **Representative's Authority to Contract.** By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

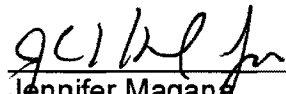
CITY OF WICHITA, KANSAS

Janis Edwards
Deputy City Clerk

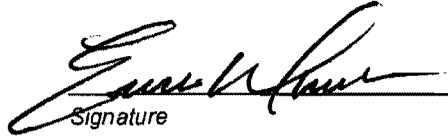
Melinda A. Walker
Purchasing Manager

APPROVED AS TO FORM:

DEAN E. NORRIS, INC.



Jennifer Magana
City Attorney and Director of Law



Signature

Erick Wheeler

Print Name

DIRECTOR OF SERVICE OPERATIONS
Title (President or Corporate Officer)

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

EXHIBIT B

List of Rates

Product Line	Description	*Day Rate	Week Rate	4 Week Rate
AERIAL PRODUCTS	ARTICULATED BOOM LIFT 30'	207	620	1840
AERIAL PRODUCTS	SCISSOR LIFT 20'	125	375	595
AERIAL PRODUCTS	SCISSOR LIFT 32' NARROW	155	430	1000
AIR COMPRESSOR PRODUCTS	AIR COMPRESSOR 375 CFM			
AIR COMPRESSOR PRODUCTS	AFTERCOOLED	222	655	1960
AIR COMPRESSOR PRODUCTS	AIR HAMMER BREAKER 30LB	52	105	310
BACKHOE PRIME PRODUCT	BACKHOE 420 4WD CAB 14'4" - 1	351	1050	3145
BACKHOE PRIME PRODUCT	BACKHOE 420 4WD IT 14'4" -	413	1225	3680
BACKHOE PRIME PRODUCT	BACKHOE 430 4WD IT 15'5" -	464	1390	4175
BACKHOE PRIME PRODUCT	BACKHOE QUICK COUPLER	27	75	230
BACKHOE PRIME PRODUCT	BACKHOE BUCKET 8"	27	75	230
BACKHOE PRIME PRODUCT	BACKHOE BUCKET 12"	27	75	230
EXCAVATOR PRIME PRODUCT	EXCAVATOR 300.9 - 5'-8" DEPTH	155	465	1395
EXCAVATOR PRIME PRODUCT	EXCAVATOR 301 - 7'7" DEPTH	207	620	1840

*FOR THE HOURLY RATE, DIVIDE DAY RATE BY 8.

This is a placeholder document for the report "Agenda Report No. II-7a". There was an error in the publishing process and it could not be converted to PDF.

4337



July 25, 2016
CHANGE ORDER

To: Mies Construction, Inc.
Change Order No.: 1
Purchase Order No.: PO640479

Project: Paving, Sanitary Sewer, and Waterline to
serve Southwest Industrial Addition;
Project No.: 472-85220/448-90691/468-85066
OCA No.: 766341/735537/744401/620853
PPN: 490363/470210/480093/666005

CHANGE ORDER TOTAL: \$90,920.00

Work for this Change Order cannot be completed until approved by all. Contractor should expect approximately 6 weeks for approval.

CHARGE TO OCA No.: 620853

Please perform the following extra work at a cost not to exceed \$90,670.00

CHARGE TO OCA No.: 744401

Please perform the following extra work at a cost not to exceed \$0.00
Paid by Special Assessment

Additional Work: Replace manholes over existing 36" sewer main.
Reason for Additional Work: Final field inspection in preparation for the connection to the existing manholes in Sheridan found the manholes deteriorated and requires replacement prior to extending new service to the development. Contractor will construct new manholes over the existing 36" sewer main, bypass pump between the new manholes, removed the existing brick manholes, and reconnect 36" sewer pipe into the new manholes. Staff and contractor will track daily bypass pumping for final adjustment on budget charges.

(620853)

Line #	Item	Negotiated/ Bid	Qty	Unit Price	Extension
New	Pipe, SS 36"	Negot'd	28 lf.	\$165.00	\$4,620.00
New	MH, SS, Line Existing, (6') (Epoxy Lined)	Negot'd	2 ea.	\$22,350.00	\$44,700.00
New	Pumping, Bypass (Installation and Removal)	Negot'd	1 LS	\$8,500.00	\$8,500.00
New	Pumping, Bypass	Negot'd	5 Day	\$4,575.00	\$22,875.00
New	Dewatering	Negot'd	1 LS	\$9,975.00	\$9,975.00

(744401)

Line #	Item	Negotiated/ Bid	Qty	Unit Price	Extension
48	MH Adjusted, SS	Bid	(2 ea.)	\$8,500.00	(\$17,000.00)
50	MH, Connect to existing	Bid	(2 ea.)	\$400.00	(\$800.00)
51	Fill, Flowable	Bid	(36 lf.)	\$40.00	(\$1,440.00)
52	Fill, Sand (Flushed & Vibrated)	Bid	36 lf.	\$15.00	\$540.00
New	MH, Removed (Brick)	Negot'd	2 ea.	\$9,350.00	\$18,700.00

CHARGE TO OCA No.: 744401

Please perform the following extra work at a cost not to exceed \$250.00
Paid by Special Assessment

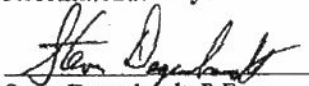
Additional Work: Install silt fence

Reason for Additional Work: Contractor will install silt fence at the drainage ditch along the north side of the project per the approved Storm Water Pollution Prevention Plan.

(744401)	Negotiated/ Bid	Qty	Unit Price	Extension
Line # Item				
New BMP, Silt Fence	Negot'd	100 lf.	\$2.50	\$250.00

CIP Budget Amount:	\$615,000.00 (766341)	Original Contract Amt.:	\$336,699.09
	\$105,000.00 (735537)		
	\$82,000.00 (744401)		
	\$120,000.00 (620853)		
Consultant: Baughman (620853)		Current CO Amt.:	\$90,920.00
Total Exp. & Encum. To Date:	\$0.00	Amt. of Previous CO's	\$0.00
CO Amount:	\$90,670.00	Total of All CO's:	\$90,920.00
Unencum. Bal. After CO:	\$29,330.00	Adjusted Contract Amt.:	\$427,619.09
(744401)			
Total Exp. & Encum. To Date:	\$48,320.06		
CO Amount:	\$250.00		
Unencum. Bal. After CO:	\$33,429.94		

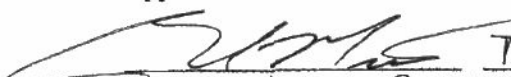
Recommended By:


Steve Degenhardt, P.E.
Construction Division Manager
Date 07/29/16

Approved:


Gary Janzen, P.E.
City Engineer
Date 08/09/16


Approved:


Contractor Earl Mies, Resident
Date 7/28/16

Approved

 FOR A.K.
Alan King
Director of Public Works & Utilities
Date 8/9/16

Approved as to Form:


Jennifer Magaña
City Attorney and Director of Law
Date 8-1-16

By Order of the City Council:

Jeff Longwell
Mayor
Date

Attest:

City Clerk

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: Approval of Offers for the 143rd East - Kellogg to Central Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the offers.

Background: On May 19, 2015, the City Council approved the design for the improvement of 143rd Street East from Kellogg to Central. The project calls for widening 143rd Street from a two-lane to a five-lane roadway with two through lanes in each direction and a center two-way left turn lane. Curb and gutter will be installed and drainage will be improved. A six-foot wide sidewalk will be constructed on both sides of 143rd Street, with a pedestrian crossing at the north end of the project between Siefkin Street and the Kansas Turnpike Authority Bridge. The project requires acquisition of drainage easements from four parcels and the acquisition of 25 temporary construction easements. The properties are primarily residential with some commercial tracts near Kellogg.

Analysis: As required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, all tracts required for the project have been valued and just compensation established. Based on these valuations, the fair market value of the tracts to be acquired totals \$22,805. This amount will be offered to the various property owners. Any settlements in excess of the approved amounts will be presented to the City Council for final approval.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of \$37,805 is requested. This includes \$22,805 for the acquisitions, \$10,000 for potential relocation, and \$5,000 for title work, closing costs and other administrative fees.

Legal Considerations: All agreements are subject to review and approval as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the offers and authorize the necessary signatures.

Attachments: Tract list.

143rd: Central to Kellogg

Engineer:

OCA: 707066

Tract	Property Address	Tract Owner	Take Size (SF)	Type	Zoning	Use	Comments
	1 530 Edgewater	Bernard&Cheryl McFarthing	849	TE	SF 20	Residential	Evergreens to be removed
	2 14401 E Kellogg	Keith&Hillary Fitzgeralds	1,600	TE	SF 20	Residential	Evergreens to be removed
	3 14402 E Kellogg	E Kellogg QT, LLC	4,730	TE	LC	Retail	
	4 NWc Kellogg and 143rd	Aetna Trust	428	DE	SF 5	Plat Coml	
	5 NWc Kellogg and 143rd	Aetna Trust	1,221	TE	SF 5	Plat Coml	
	6 340 S Cardinal Lane	John&Verdene Newman	1,700	TE	SF 5	Residential	Small shrubs/scrub to be removed
7a	315 S Cardinal Lane	Randall&Diane Goering	542	TE	SF 5	Residential	
7b	315 S Cardinal Lane	Cities Service Gas Co.	1,433	TE	SF 5	Utility	Wall and equipment, value as relo by bid
	8 Block 143rd	Aetna Trust	875	TE	SF 5	Plat Coml	Trees in ROW coming out
	9 255 S Cardinal Lane	Douglas&Jocelyn Pickard	1,773	TE	SF 5	Residential	Fence in TE, 180 IF @ \$20
	10 247 S Cardinal Lane	Lonnie Stout/Jerry Isemen	1,706	TE	SF 5	Residential	4 trees , \$500 each
	11 231 S Cardinal Lane	Rick&Darci Luther	1,706	TE	SF 5	Residential	2 trees, small, \$200 each
	12 201 S Cardinal Lane	Stephen Ropar	1,716	TE	SF 5	Residential	2 trees, \$200 each, closing drive
	13 161 S Cardinal Lane	Paul&Vicki Sampson	1,526	TE	SF 5	Residential	1 tree
	14 101 S Cardinal Lane	Larry&Diane Vansike	2,300	TE	SF 5	Residential	
	15 102 S Cardianl Lane	Larry&Janis Frutiger	1,497	TE	SF 5	Residential	
	16 14317 E Whitewood	Kyle&May Reed	644	TE	SF 5	Residential	
	17 14332 E Hawthorne	Judy Brown	440	TE	SF 5	Residential	2 large trees in ROW, 2 trees in easement
	18 14326 E Hawthorne	Jordan&Joanna Bates	433	TE	SF 5	Residential	4 trees in easement
	19 14320 E Hawthorne	Kevin&Terri Vaughn	823	TE	SF 5	Residential	4 trees in easement
	20 14320 E Hawthorne	Kevin&Terri Vaughn	50	DE	SF 5	Church	
	21 14304 E Whitewood	Shoal Creek HOA	783	TE	SF 5	Reserve	
	22 333 N 143rd	Metro East Baptist Church	3,405	TE	SF 5	Church	
	23 333 N 143rd	Metro East Baptist Church	150	DE	SF 5	Church	
	24	Shadybrook Meadow HOA	629	DE	SF 5	Reserve	
	25	Shadybrook Meadow HOA	715	TE	SF 5	Reserve	
	26 300 N 143rd	Gary&Cynthia Clark	329	TE	SF 5	Residential	1 tree in easement
	27 304 N 143rd	Gary&Cynthia Clark	326	TE	SF 5	Residential	
	28 333 N 143rd	Metro East Baptist Church	1,200	TE	SF 5	Church	

**City of Wichita
City Council Meeting
August 23, 2016**

TO: Mayor and City Council

SUBJECT: Golf Cart Purchases (All Districts)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Authorize the sole source procurement from Yamaha Golf Car Company, approve any necessary budget transfers and authorize the necessary signatures.

Background: The Golf Division mission is to provide high quality, affordable golfing opportunities to Wichita residents and visitors. The rental of golf carts provides a significant revenue for the Golf Fund. In 2015, cart revenue exceeded \$1 million. Revenue from carts is used not only to maintain the golf cart fleet, but also to offset costs of maintaining the golf courses.

The 2015 Golf Enterprise Plan, presented to the City Council on January 26, 2016 at a City Council workshop meeting and approved by the Board of Park Commissioners on March 14, 2016, outlines strategies for future Golf Course operations. Increasing rounds and revenue per round were key marketing strategies from the Enterprise Plan. The plan also noted that a clean, well maintained, and modern cart fleet is essential to enhance the customer experience. In a 2015 survey of Wichita golf customers, 62% of responses rated the cleanliness and reliability of the Golf Division's golf carts as average, and 7% rated them as poor. Finally, the infrastructure strategies included in the Golf Enterprise Plan noted the importance of maintaining and replacing Golf equipment and identified 196 golf carts that were past their useful life and in need of replacement.

Analysis: The Golf system currently maintains a fleet of 285 golf carts for the five City courses. The average age of these carts is eight years. Most City carts are currently electric, and this type of cart typically has a useful life of seven years. Replacement of the oldest portion of the golf cart fleet is needed to ensure a modern, reliable cart for golf customers.

Staff have reviewed the three main types of carts that are available. Electric carts have a lower acquisition price, but require a costly replacement of batteries approximately every three years. These carts also have the shortest estimated useful life at seven years. Electric carts can usually only be used once daily (requiring a lengthy re-charging period after every 18 hour round).

Gas powered carts are typically more expensive to acquire, but have lower maintenance costs and a longer (ten years) useful life. In addition, gas powered carts can also be used continuously, with refueling taking a very short amount of time. Finally, Electronic Fuel Injected (EFI) gas powered carts represent state-of-the-art technology, providing advantages over traditional gas powered carts. Fuel injected carts start easier and do not require a choke (which burns additional fuel and creates additional noise). They are more fuel efficient than traditional gas powered cars, and also produce lower emissions.

Staff believe that fuel-injected carts would provide the lowest life cycle costs, while also providing the highest level of customer satisfaction. However, EFI gas powered carts are currently manufactured by one company: Yamaha. In addition, Yamaha has very specific distribution agreements which only allow one distributor to service a specific geographic area. For Wichita, the distributor is Yamaha Golf Car Company with an office in Kansas City, Kansas.

New EFI golf carts currently retail for around \$4,500. Yamaha Golf Car Company has offered to sell the City of Wichita a fleet of 120 carts that are not brand new, but that have been used for less than 2 weeks as transportation at youth sporting events. The unit price for these carts is \$4,100. Staff have identified 102 current carts that are obsolete and well beyond their useful life. This includes 1 cart purchased in 2000; 48 carts purchased in 2001; four carts purchased in 2002 and 49 carts purchased in 2003. The newest of the carts proposed to be replaced is 13 years old, well beyond their useful life. Yamaha Golf Car Company has offered a trade-in allowance of \$449.50 per cart, or a total allowance of \$45,850. With the trade-in, the net unit cost of 120 EFI carts is \$3,718 each.

Financial Considerations: The proposed sole source purchase would total \$446,150. The Golf Fund budget includes \$150,000 beginning in 2017 to fund golf cart replacements. However, due to the critical nature of golf carts in the financial sustainability of the Golf system, staff recommend completing the purchase of golf carts now. To fund the purchase, a total of \$446,150 would be transferred to the Golf Fund to facilitate the purchase. The Golf Fund would be budgeted to repay this loan at \$150,000 annually from 2017 – 2019. The Landfill Fund currently has a commitment to provide \$1 million for the development of Crystal Prairie Park. To protect the Landfill Fund from the risk that the Golf Fund may provide reimbursement on a slower than expected schedule, staff recommend that any deficiency in Golf Fund transferred be netted from any amount the Landfill Fund ultimately transfers for the Crystal Prairie Park project.

Legal Considerations: City Code section 2.64.020 allows sole source procurement when items are available only from one vendor or, such as here, from the original manufacturer.

Recommendation/Action: It is recommended that the City Council accept the quote, authorize the selection of Yamaha as the vendor, approve any necessary budget transfers and authorize the necessary signatures.



Service Centers in:
Denver, CO • Kansas City, KS
Billings, MT • Gering, NE
A Part of Masek Distributing, Inc.



"Largest Golf Car Distributor in the United States"

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Nebraska
425 M. Street • Gering, NE 69341
Local: 308.436.2100
Toll Free: 800.800.8987
Fax: 308.436.2800

Colorado
5345 Newport Street
Commerce City, CO 80022

June 30, 2016

Mr. Troy Hendricks
Golf Course Manager
City of Wichita
Department of Park and Recreation
455 North Main, 11th Floor
Wichita, KS 67202

Re: Golf Car Quote

Mr. Hendricks,

We are pleased to quote the following Yamaha gas golf cars for the City of Wichita:

A quantity of 120 or more 2016 Yamaha YDRA "Drive" model gas golf cars with Electronic Fuel Injection (EFI), Glacier White in color, equipped with standard rain-drain top, sweater basket, energy-absorbing bumpers, cup holders, and pencil/scorecard holder. Our price includes optional fleet numbers (4 per car), information holder, and Yamaha's famous 4-year factory warranty (copy available on request).

Included specifications on gas Yamaha Drive models:

Brakes: Auto-adjusting, mechanical, rear -wheel, drum type.
Parking Brakes: Foot operated, automatic release.
Steering: Double-Ended Rack and Pinion.
Ground Speed: 12-15m.p.h.
Front Suspension: Fully Independent Automotive-Style Strut Suspension.
Rear Suspension: Coil springs with hydraulic shock absorbers.
Engine Type: Low-emission, Yamaha-built single cylinder OHV, 357 cc, in use since 2003, with Fuel Injection option since 2011 (2012 model year).

Safety Features: Hand holds, hip restraints.

Dry Weight with sun top: 683.4 lbs.
Tires: 18x8.5x8 4-ply.
Seating Capacity: 2 persons
Seats: Vinyl covered, Color: Stone.
Body Color: White.

Package to include: One (1) complete set of service, repair, and operator manuals.

Pricing:

We are proposing a set of our 2016 "Rodeo" golf cars which have been used approximately 14 days to provide contestant transportation around the rodeo grounds at the National Junior High School and High School Rodeo Finals, held this year in Lebanon TN and Gillette, WY, respectively. The cars will have some minor wear and tear and body blemishes, about the same as might be expected in a short amount of golf course usage. Full factory warranty will apply.

Pricing delivered to any City of Wichita golf course is \$4,100 per car. We are proposing a quantity of 120 units. (120 x \$4100 = \$492,000).

Trades:

We are proposing to take in trade:

--One 2000-model and forty seven 2001-model EZGo TXT electric units from Tex Consolver (48 units), valued at \$19,150;

--One 2001-model and four 2002-model EZgo TXT electric units, plus forty nine 2003-model Club Car DS electric units from Sim Park (54 total units), valued at \$26,700.

Total trade value: 102 units at \$45,850. All of the trades must be in complete, good running condition, with a working charger. If the trades do not meet this minimum condition, an appropriate deduction would be made from the trade allowance.

Net trade difference: \$446,150.

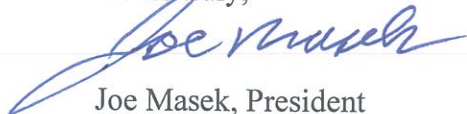
Delivery and terms: Delivery can begin in mid-August, providing we receive approval of the quote by July 15, 2016, and will take approximately three weeks on our trailers. Payment would be due 30 days from delivery and acceptance of the units by the City.

We can add more new units and additional or different trades at the City's direction.

THE EQUIPMENT SUPPLIED IS CURRENT STANDARD PRODUCTION, SUBSTANTIATED BY CURRENT PUBLISHED LITERATURE AND PRICE SHEETS. THE MANUFACTURER IS PREPARED TO PROVE SATISFACTORY EXPERIENCE IN THE DESIGN AND MANUFACTURE OF THE MACHINES SPECIFIED. SERVICE FACILITIES STAFFED BY QUALIFIED EMPLOYEES WITH ADEQUATE INVENTORY OF PARTS FOR REPAIR AND SERVICE OF MACHINES IS LOCATED IN THE WICHITA, KANSAS AREA.

Our quotes normally expire in thirty days. Please let me know if there are any further questions or if other options are required. Thank you for the opportunity to provide a quote!

Yours truly,



Joe Masek, President

file: Wichita golf car proposal 6.30.16

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: HOME CHDO Operating Support Funding (Districts I, III, and VI)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the recommended allocations and the funding agreements and authorize the necessary signatures.

Background: On August 2, 2016, the City Council approved final allocations under the 2016-2017 Third Program Year Action Plan, which included \$50,000 of HOME Investment Partnerships Program (HOME) funds for operational support for City-designated Community Housing Development Organizations (CHDOs).

Analysis: HOME funds are provided by the U.S. Department of Housing and Urban Development (HUD) and HUD regulations allow up to five percent of HOME allocations to be used for general operating assistance to CHDOs that are receiving set-aside funds for a housing development activity. Operating expenses are defined as reasonable and necessary costs for the operation of the CHDO, and may include salaries and other employee compensation and benefits. Expenses for education, training, travel, rent, utilities, communications costs, taxes, insurance equipment, materials and supplies are also eligible. Under the City's program, a maximum grant amount of \$25,000 is available to any one CHDO.

Housing and Community Services staff has evaluated funding applications submitted by the CHDOs and recommends allocations for Mennonite Housing Rehabilitation Services and Power CDC.

Financial Considerations: Funding for these allocations will come from the 2016-2017 HOME Grant. There is no impact to the General Fund as a result of this action.

Mennonite Housing Rehabilitation Services (MHRS) is recommended to receive \$25,000. This allocation will partially fund the MHRS Project Manager's salary to oversee the following HOME-funded programs: 2014, 2015 and expected 2016 CHDO set-aside projects; Boarded-up House projects; and single-family development projects funded under the Housing Development Loan Program. MHRS was allocated funding sufficient to produce four units of housing with 2016 CHDO set-aside funding and is currently developing seven units of housing with prior-year CHDO set-aside funding.

Power CDC is recommended to receive \$25,000. This allocation will partially fund the salary and benefits for the Executive Director to oversee its 2015 CHDO set-aside single-family housing program. Power CDC has funding sufficient to produce one housing unit in its Millair Creek subdivision with 2015 CHDO set-aside funding, and is eligible to apply for unallocated 2016 CHDO set-aside funding in order to produce additional units, provided approved buyers can be identified.

Legal Considerations: Funding agreements have been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the recommended allocations and the funding agreements and authorize the necessary signatures.

Attachments: Funding agreements.

GRANT AGREEMENT

Between

**THE CITY OF WICHITA
HOUSING SERVICES DEPARTMENT**

A

PARTICIPATING JURISDICTION

And

**Power Community Development Corporation
(Power CDC, The Agency)**

A

COMMUNITY HOUSING DEVELOPMENT ORGANIZATION

**Operating Support Funding
2016-2017**

HOME Investment Partnerships
Program

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, KS 67203
Phone (316) 462-3700

No. _____

AGREEMENT

THIS CONTRACT, dated the 23rd day of August, 2016, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Power Community Development Corporation (Power CDC, a Community Housing Development Organization, hereinafter referred to as the "Agency").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Agency is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.208; and

WHEREAS, the City deems the activities to be provided by the Agency as consistent with, and supportive of the HOME Investment Partnership Program, and the Agency requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Agency is essential for the successful implementation of an Affordable Housing Program;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Agency must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Agency are to begin August 23, 2016, and end no later than December 31, 2017 and shall be undertaken to accomplish the purposes of this contract.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Agency shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Agency shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Agency, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Agency shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Agency or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Agency or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Agency or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Agency of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or

activity" is defined as any function conducted by an identifiable administrative unit of the Agency receiving funds pursuant to this contract.

B. The Agency further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Agency will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Agency has fifteen or more employees, the Agency is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Agency's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135 and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.

3. The Agency agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where

both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Agency agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Agency will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Agency that involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Agency sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Agency shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or Agency to assume the same obligations as the Agency for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or Agency shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation of residential property containing less than twelve units, the Agency and all

contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto. **The Agency shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of any building and is exempt from Davis-Bacon Act wage requirements.**

The Agency shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training,
including apprenticeship.

The Agency shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Agency and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

a) The Agency will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Agency agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

c) **The Agency agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Agency's compliance with The Rehabilitation Act.** Such notices shall state the Agency's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Agency shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Agency, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Agency will not exceed \$25,000 as referenced in Exhibit B.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Agency or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Agency, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 26, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Agency agrees to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Agency mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Agency agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), as amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (7.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (7.) as amended.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/Agency must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Agency shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Agency, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Agency pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Agency shall comply with the applicable requirements of 2 CFR 200, specifically, Standards for Financial Management Systems, as follows:

- (a) Agency is required to relate financial data to performance data and develop unit cost information whenever practical.
- (b) Agency's financial management systems shall provide for the following:
 - (1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in 2 CFR Sections 200.327 and 200.328. If a recipient maintains its records on other than an accrual basis, the Agency shall not be required to establish an accrual accounting system. The Agency may develop such accrual data for reports on the basis of an analysis of the documentation on hand.
 - (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
 - (3) Effective control over and accountability for all funds, property and other assets. The Agency shall adequately safeguard all such assets and assure they are used solely for authorized purposes.
 - (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
 - (5) Written procedures to minimize the time elapsing between the transfer of funds to the Agency from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Agency. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures

codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Agency, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where the Agency lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States . ' '

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. The Agency will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Development Act of 1992. Compliance will include all activities required by these regulations. The Agency also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Agency will comply with the Lead-Based paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The Project will comply with section 92.355 of the HOME rule. The Agency will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Agency will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (P.L. 102-550), and the regulations found at 24 CFR part 35.

SECTION 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Agency. If the contract is terminated by the City as provided herein, the Agency will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Agency covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Agency shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Agency during the

contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Agency, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by a project as a result of entitlement funds shall be accounted for and refunded to the City quarterly or used to offset project cost unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Agency agrees to transfer ownership of any real property purchased with HOME funds under this agreement, to the City. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 25. DISBURSEMENT OF HOME FUNDS. The Agency may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing Services Department, payments to the

Agency will be provided on a reimbursement basis. The amount of each request will be limited to the amount needed.

SECTION 26. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

**Power CDC, Inc.
(the Agency)**

Signature

Title of Officer

Date

CITY OF WICHITA, at the Direction of the City Council

By _____
Jeff Longwell, Mayor

Date

ATTEST:

Karen Sublett, City Clerk

Date

Approved as to Form:

Jennifer Magaña
City Attorney and Director of Law

Date

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the

contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Exhibit B

PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and the Agency, hereinafter referred to as the "City" and "Agency," respectively, that execution of this contract obligates the Agency to the following performance requirements.

HOME operating funds in the amount of \$25,000 shall be used for the operating expenses of the Agency. Eligible costs are outlined in 24 CFR Part 92, as amended, as specifically outlined at 24 CFR 92.208.

I. Administration

The Agency's Executive Director will supervise operations and administration on a day-to-day basis. The Agency's Board of Directors is ultimately responsible for program administration.

A. Funding

It is mutually agreed by and between the City and the Agency that the total HOME funds available to the Agency will be \$25,000, to provide operational support for HOME-related, single-family housing development activities in the City's Local Investment Areas. Specific use of the funding to be set forth in the sections entitled, Budget and Method of Payment. Funding provided under this contract incorporates the funding application issued in connection with the funding, and the Agency's response, unless superceded by this contract. Equipment purchased with funding provided under this contract must be returned to the City of Wichita for disposition.

B. Budget

The City shall pay the Agency as hereinafter set out; the maximum of \$25,000.00 for the program described in this contract. Said funding shall be used as follows:

Professional Services; Salaries Support	<u>\$25,000.00</u>
TOTAL	\$25,000.00

C. Method of Payment

The Agency agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME. The Agency agrees that all payments under this contract will be on a

reimbursement basis. The Agency shall submit a request for reimbursement on a monthly basis, by no later than the 30th of each month. Upon review of the reimbursement request by the Housing Services Department, the City will proceed to make payment directly to the Agency for all eligible and adequately documented expenses.

1. The City and Agency also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Adjustments between existing budget categories can be made administratively. However, changes greater than \$10,000 must be approved by the City Council.

2. The Agency will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditures made under this agreement will be retained in the Agency's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability. Documentation of eligible costs will include, but is not limited to: vendor invoices, purchase orders, receipts and payroll records. The City shall retain all such documentation for audit purposes.

3. A maximum of 1/12 of the budgeted amount for salaries will be paid out per month for salaries expenses.

4. The Agency may request a cash advance in the amount of no more than 1/12 of the total amount of the contract. Cash advances will be deducted from the total amount of funding provided under this contract.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. **The Agency will provide, for the year ending June 30 of each year, beginning June 30, 2017, and for each year this contract is in effect, an annual report of the HOME funded portion of the program.** The report will consist of a narrative or other description of activities undertaken during the year. Said report shall be due on **July 10** of each year during the contract term.

3. The **Agency** will maintain records documenting receipts of program income and expenditures of the same. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports, for a period of 5 years, following the expiration of this contract.

II. Program Evaluation

The City shall evaluate this project based on the objectives stated in Section I.B. of this Exhibit. Failure by the Agency to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Agency on a pro rata basis with level of service. The Agency records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

BUDGET

Professional Services; Salaries Support	<u>\$25,000.00</u>
TOTAL	\$25,000.00

GRANT AGREEMENT
Between
THE CITY OF WICHITA
HOUSING SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And
Mennonite Housing Rehabilitation Services, Inc.
(The Agency)
A
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION

Operating Support Funding
2016-2017

HOME Investment Partnerships
Program

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, KS 67203
Phone (316) 462-4700

No. _____

AGREEMENT

THIS CONTRACT, dated the 23rd day of August, 2016, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Mennonite Housing Rehabilitation Services, Inc. a Community Housing Development Organization (hereinafter referred to as the "Agency").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Agency is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.208; and

WHEREAS, the City deems the activities to be provided by the Agency as consistent with, and supportive of the HOME Investment Partnership Program, and the Agency requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Agency is essential for the successful implementation of an Affordable Housing Program;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Agency must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Agency are to begin August 23, 2016, and end no later than December 31, 2017 and shall be undertaken to accomplish the purposes of this contract.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Agency shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Agency shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Agency, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Agency shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Agency or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Agency or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Agency or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Agency of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Agency receiving funds pursuant to this contract.

B. The Agency further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Agency will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Agency has fifteen or more employees, the Agency is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Agency's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135 and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.

3. The Agency agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire,

availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Agency agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Agency will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Agency that involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Agency sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Agency shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or Agency to assume the same obligations as the Agency for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or Agency shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation of residential property containing less than twelve units, the Agency and all contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with

assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto.

The Agency shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards. No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of any building and is exempt from Davis-Bacon Act wage requirements.**

The Agency shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training,
including apprenticeship.

The Agency shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Agency and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

a) The Agency will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Agency agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

c) **The Agency agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Agency's compliance with The Rehabilitation Act.** Such notices shall state the Agency's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Agency shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Agency, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Agency will not exceed \$25,000 as referenced in Exhibit B.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Agency or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Agency, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 26, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Agency agrees to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Agency mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Agency agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), as amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (7.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (7.) as amended.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/Agency must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Agency shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Agency, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Agency pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Agency shall comply with the applicable requirements of 2 CFR 200, specifically, Standards for Financial Management Systems, as follows:

- (a) Agency is required to relate financial data to performance data and develop unit cost information whenever practical.
- (b) Agency's financial management systems shall provide for the following:
 - (1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in 2 CFR Sections 200.327 and 200.328. If a recipient maintains its records on other than an accrual basis, the Agency shall not be required to establish an accrual accounting system. The Agency may develop such accrual data for reports on the basis of an analysis of the documentation on hand.
 - (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
 - (3) Effective control over and accountability for all funds, property and other assets. The Agency shall adequately safeguard all such assets and assure they are used solely for authorized purposes.
 - (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
 - (5) Written procedures to minimize the time elapsing between the transfer of funds to the Agency from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Agency. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures

codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Agency, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where the Agency lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States . ' '

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. The Agency will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Development Act of 1992. Compliance will include all activities required by these regulations. The Agency also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Agency will comply with the Lead-Based paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The Project will comply with section 92.355 of the HOME rule. The Agency will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Agency will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (P.L. 102-550), and the regulations found at 24 CFR part 35.

SECTION 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Agency. If the contract is terminated by the City as provided herein, the Agency will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Agency covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Agency shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Agency during the

contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Agency, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by a project as a result of entitlement funds shall be accounted for and refunded to the City quarterly or used to offset project cost unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Agency agrees to transfer ownership of any real property purchased with HOME funds under this agreement, to the City. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 25. DISBURSEMENT OF HOME FUNDS. The Agency may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing Services Department, payments to the

Agency will be provided on a reimbursement basis. The amount of each request will be limited to the amount needed.

SECTION 26. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

**Mennonite Housing Rehabilitation Services, Inc.
(the Agency)**

Signature

Title of Officer

Date

CITY OF WICHITA, at the Direction of the City Council

By _____
Jeff Longwell, Mayor

Date

ATTEST:

Karen Sublett, City Clerk

Date

Approved as to Form:

Jennifer Magaña
City Attorney and Director of Law

Date

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Exhibit B

PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and the Agency, hereinafter referred to as the "City" and "Agency," respectively, that execution of this contract obligates the Agency to the following performance requirements.

HOME operating funds in the amount of \$25,000 shall be used for the operating expenses of the Agency. Eligible costs are outlined in 24 CFR Part 92, as amended, as specifically outlined at 24 CFR 92.208.

I. Administration

The Agency's Executive Director will supervise operations and administration on a day-to-day basis. The Agency's Board of Directors is ultimately responsible for program administration.

A. Funding

It is mutually agreed by and between the City and the Agency that the total HOME funds available to the Agency will be \$25,000, to provide operational support for HOME-related, single-family housing development activities in the City's Local Investment Areas. Specific use of the funding to be set forth in the sections entitled, Budget and Method of Payment. Funding provided under this contract incorporates the funding application issued in connection with the funding, and the Agency's response, unless superceded by this contract. Equipment purchased with funding provided under this contract must be returned to the City of Wichita for disposition.

B. Budget

The City shall pay the Agency as hereinafter set out; the maximum of \$25,000.00 for the program described in this contract. Said funding shall be used as follows:

Professional Services; Salaries Support	<u>\$25,000.00</u>
TOTAL	\$25,000.00

C. Method of Payment

The Agency agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME. The Agency agrees that all payments under this contract will be on a

reimbursement basis. The Agency shall submit a request for reimbursement on a monthly basis, by no later than the 30th of each month. Upon review of the reimbursement request by the Housing Services Department, the City will proceed to make payment directly to the Agency for all eligible and adequately documented expenses.

1. The City and Agency also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Adjustments between existing budget categories can be made administratively. However, changes greater than \$10,000 must be approved by the City Council.

2. The Agency will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditures made under this agreement will be retained in the Agency's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability. Documentation of eligible costs will include, but is not limited to: vendor invoices, purchase orders, receipts and payroll records. The City shall retain all such documentation for audit purposes.

3. A maximum of 1/12 of the budgeted amount for salaries will be paid out per month for salaries expenses.

4. The Agency may request a cash advance in the amount of no more than 1/12 of the total amount of the contract. Cash advances will be deducted from the total amount of funding provided under this contract.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. **The Agency will provide, for the year ending June 30 of each year, beginning June 30, 2017, and for each year this contract is in effect, an annual report of the HOME funded portion of the program.** The report will consist of a narrative or other description of activities undertaken during the year. Said report shall be due on **July 10** of each year during the contract term.

3. The **Agency** will maintain records documenting receipts of program income and expenditures of the same. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports, for a period of 5 years, following the expiration of this contract.

II. Program Evaluation

The City shall evaluate this project based on the objectives stated in Section I.B. of this Exhibit. Failure by the Agency to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Agency on a pro rata basis with level of service. The Agency records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

BUDGET

Professional Services; Salaries Support	<u>\$25,000.00</u>
TOTAL	\$25,000.00

**City of Wichita
City Council Meeting
August 23, 2016**

TO: Mayor and City Council

SUBJECT: Over-Estimate Bid and Funding for Pawnee from Hydraulic to Grove (District III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the revised budget and revised estimate, approve acceptance of the lowest bid, waive City Council Policy No. 2 regarding the use of project savings to allow the transfer of funds, and adopt the amending resolutions.

Background: In 2012, the project to improve Pawnee from Hydraulic to Grove was selected for federal funding in the Transportation Improvement Program (TIP) through the Wichita Area Metropolitan Planning Organization (WAMPO). On April 23, 2013, the City Council approved an agreement with MKEC, Inc. to complete design of the project. On October 13, 2015, the City Council approved \$6,250,000 for design and construction funding. On July 22, 2016, the project was bid for construction with all bids exceeding the Engineer's Estimate.

Analysis: The sanitary sewer work related to the project was the only budget portion of the bid that went over the engineer's estimate. Due to the depth, size, location, and sewage flow through the existing line, the construction bid prices were significantly higher than originally estimated.

The sewer portion of the bid exceeded the specific budget by approximately \$600,000. Accepting this bid will allow the project to proceed without requiring it to be re-bid; thus, eliminating a potential increase in the cost and delay in construction of the improvements. In accordance with Charter Ordinance No. 222, staff recommends the City Council approve acceptance of the lowest bid based on the best interest of the City. A revised estimate has been prepared to reflect the increased cost of constructing the improvements.

Financial Considerations: The existing budget is \$6,250,000 (\$3,182,000 in general obligation bond funding and \$3,068,000 in TIP). Due to the over-estimate bid, staff proposes adding an additional \$700,000 in Sewer Utility funding available for transfer from the 135th Street force main project. The additional funding will allow for payment of the budget shortfall, potential change orders and additional staff costs. The \$700,000 offset of Sewer Utility funding in the 135th Street force main project is due to lower than anticipated bid prices. Staff requests waiver of City Council Policy No. 2 regarding the use of project savings to allow this transfer of funds. The total revised budget would be \$6,950,000.

Legal Considerations: The amending resolutions have been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council approve the revised budget, approve acceptance of the lowest bid, waive City Council Policy No. 2 regarding the use of project savings to allow the transfer of funds, adopt the amending resolutions, and authorize the necessary signatures.

Attachments: Amending resolutions and budget sheets.

Project Request

☒ CIP ☐ Non-CIP

CIP YEAR: 2016

CIP #: S-4

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 18 Public Works & Utilities

DIVISION:

Sewer Maintenance

RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: None

FUND: 533 Sewer Construction

COUNCIL DISTRICT: 07 All Districts

DATE COUNCIL APPROVED:

REQUEST DATE:

PROJECT #: 666005

PROJECT TITLE: 2016 S-4 Sewer Mains Replacements

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: 2016 S-4 Sewer Mains Replacements

OCA #: 620835

OCA TITLE: 2016 S-4 Sewer Mains Replacements

PERSON COMPLETING FORM: Joni Chamberlain

PHONE #: 268-4572

PROJECT MANAGER: LaDonna Lawrenz

PHONE #: 268-4329

☐ NEW BUDGET

☒ REVISED BUDGET

Revenue Object Level 3	Original Budget	Adjustment	New Budget
9813 Cash Transfer In	\$5,400,000.00	\$700,000.00	\$6,100,000.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
	\$5,400,000.00	\$700,000.00	\$6,100,000.00

Expense Object Level 3

2999 Contractuals	\$5,400,000.00	\$700,000.00	\$6,100,000.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
Total Expense:	\$5,400,000.00	\$700,000.00	\$6,100,000.00

NOTES:

Transfer in from
135th St Parallel
Force Main to fund
Pawnee Hyd-Grove

SIGNATURES REQUIRED

DIVISION HEAD:

DEPARTMENT HEAD:

BUDGET OFFICER:

CITY MANAGER:

Print Form

DATE:

DATE:

DATE:

DATE:

RESOLUTION NO. 16-_____

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 15-365 OF THE CITY OF WICHITA, KANSAS WHICH DECLARED IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER UTILITY OWNED AND OPERATED BY THE CITY, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body"), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body has heretofore by Resolution No. 15-365 of the City (the "Prior Resolution"), found and determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

2016 Reconstruction or Rehabilitation of Aged Sanitary Sewer

(the "Project") at an estimated cost, including related design and engineering expenses of \$5,400,000; and

WHEREAS, the Prior Resolution also determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed \$5,832,000 in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the "Bonds") to be payable from the revenues of the Utility; and

WHEREAS, the City now realizes the financing initiated under the Prior Resolution will not suffice for completion of the Project, and it is therefore necessary to amend the Prior Resolution.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Amendment. *Section 1 and Section 2* of the Prior Resolution are hereby amended to read as follows:

Section 1. Project Authorization. It is hereby determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

2016 Reconstruction or Rehabilitation of Aged Sanitary Sewers

(the "Amended Project") at an estimated cost, including related design and engineering expenses of \$6,100,000. It is hereby further authorized, ordered and directed that the Amended Project be designed, acquired, constructed and/or installed in accordance with plans and specifications therefor prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The Amended Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 2. Project Financing. In order to pay all or a portion of the costs of the Amended Project and related reserves, interest on financing and administrative and financing costs, it is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed \$6,588,000 (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Amended Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures authorized by the Prior Resolution made on or after the date which was 60 days before the date of adoption of the Prior Resolution and to reimburse additional expenditures authorized by this Resolution, which were made on or after the date 60 days before the date of adoption of this Resolution, all pursuant to Treasury Regulation §1.150-2.

Section 2. Notice. Before issuing the Bonds authorized herein, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Amended Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Amended Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Amended Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Amended Project and issuance of the Bonds.

Section 3. Repeal and Ratification. In the event no sufficient protest petition is filed in accordance with the Act against the Amended Project and the Bonds as set forth in *Section 2* hereof, *Sections 1 and 2* of the Prior Resolution are hereby repealed; and the rest and remainder thereof is hereby ratified and confirmed. If a protest petition is filed and/or if a required referendum does not approve the Amended Project and the Bonds, the Prior Resolution remains in full force and effect with respect to the Project and the Bonds authorized therein.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on _____, 2016.

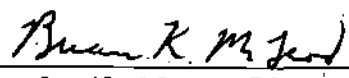
(SEAL)

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:



for Jennifer Magaña, Director of Law
and City Attorney

(Published in *The Wichita Eagle*, on _____, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the "Governing Body") of the City of Wichita, Kansas (the "City"), adopted Resolution No. 16-_____, on _____, 2016, (the "Resolution"). The Resolution amended Resolution No. 15-365 (the "Prior Resolution") which found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair and improve the City of Wichita, Kansas Water and Sewer Utility (the "Project"), which is owned and operated by the City (the "Utility"), and authorized the issuance of revenue bonds in amount not to exceed \$5,832,000 in order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs. The City desired to increase the estimated costs and financing authority for design and construction of the Project and it is therefore necessary to amend the Prior Resolution to support the work on

2016 Reconstruction or Rehabilitation of Aged Sanitary Sewers

(the "Amended Project") at an estimated cost, including related design and engineering expenses of \$6,100,000 and declared the intention to issue revenue bonds an aggregate principal amount not to exceed \$6,588,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the "Bonds") in order to finance all or a portion of the costs of the Amended Project and related reserves, interest on financing and administrative and financing costs.

The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Amended Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Amended Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Amended Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on _____, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

Project Request

☒ CIP ☐ Non-CIP

CIP YEAR: 2009

CIP #: Old CIP

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 18 Public Works & Utilities

DIVISION: Sewer Maintenance

RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: None

FUND: 533 Sewer Construction

COUNCIL DISTRICT: 07 All Districts

DATE COUNCIL APPROVED:

REQUEST DATE:

PROJECT #: 659561

PROJECT TITLE: S-561 20" Parallel Force Main from PS #56

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: 20" Parallel Force Main at 135th Street

OCA #: 624094

OCA TITLE: S-561 20" Parallel Force Main from PS #56

PERSON COMPLETING FORM: Joni Chamberlain

PHONE #: 268-4572

PROJECT MANAGER: LaDonna Lawrenz

PHONE #: 268-4329

☐ NEW BUDGET

☒ REVISED BUDGET

Revenue Object Level 3 Original Budget Adjustment New Budget

9813 Cash Transfer In	\$3,000,000.00	(\$700,000.00)	\$2,300,000.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
	\$3,000,000.00	(\$700,000.00)	\$2,300,000.00

Expense Object Level 3

2999 Contractuals	\$3,000,000.00	(\$700,000.00)	\$2,300,000.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
Total Expense:	\$3,000,000.00	(\$700,000.00)	\$2,300,000.00

NOTES:

Transfer to 2016 S-4
666005 to fund
Pawnee Hydraulic-
Grove (Poplar)

SIGNATURES REQUIRED

DIVISION HEAD:

DEPARTMENT HEAD:

BUDGET OFFICER:

CITY MANAGER:

Print Form

DATE:

DATE:

DATE:

DATE:

RESOLUTION NO. 16-_____

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 09-095 OF THE CITY OF WICHITA, KANSAS WHICH DECLARED IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER UTILITY OWNED AND OPERATED BY THE CITY, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body"), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body has heretofore by Resolution No. 09-095 of the City (the "Prior Resolution"), found and determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

20" Parallel Force Main from PS #56 to Plant 3 (S-015)

(the "Project") at an estimated cost, including related design and engineering expenses of \$3,000,000; and

WHEREAS, the Prior Resolution also determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed \$3,000,000 in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the "Bonds") to be payable from the revenues of the Utility; and

WHEREAS, the City now realizes the financing initiated under the Prior Resolution was greater than necessary due to lower than expected costs of the Project, and it is therefore necessary to amend the Prior Resolution.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Amendment. *Section 1 and Section 3* of the Prior Resolution are hereby amended to read as follows:

Section 1. Project Authorization. It is hereby determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

20" Parallel Force Main from PS #56 to Plant 3

(the "Project") at an estimated cost, including related design and engineering expenses of \$2,300,000. It is hereby further authorized, ordered and directed that the Project be designed, acquired, constructed and/or installed in accordance with plans and specifications therefor prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 3. Project Financing. In order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs; it is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed \$2,484,000 (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures authorized by the Prior Resolution made on or after the date which was 60 days before the date of adoption of the Prior Resolution and to reimburse additional expenditures authorized by this Resolution, which were made on or after the date 60 days before the date of adoption of this Resolution, all pursuant to Treasury Regulation §1.150-2.

Section 2. Notice. Before issuing the Bonds authorized herein, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

Section 3. Repeal and Ratification. In the event no sufficient protest petition is filed in accordance with the Act against the Amended Project and the Bonds as set forth in **Section 2** hereof, **Sections 1 and 3** of the Prior Resolution are hereby repealed; and the rest and remainder thereof is hereby ratified and confirmed. If a protest petition is filed and/or if a required referendum does not approve the Project and the Bonds, the Prior Resolution remains in full force and effect with respect to the Project and the Bonds authorized therein.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on _____, 2016.

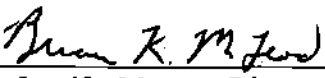
(SEAL)

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:



for Jennifer Magaña, Director of Law
and City Attorney

(Published in *The Wichita Eagle*, on _____, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the "Governing Body") of the City of Wichita, Kansas (the "City"), adopted Resolution No. 16-_____, on _____, 2016, (the "Resolution"). The Resolution amended Resolution No.09-095 (the "Prior Resolution") which found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair and improve the City of Wichita, Kansas Water and Sewer Utility (the "Project"), which is owned and operated by the City (the "Utility"), and authorized the issuance of revenue bonds in amount not to exceed \$3,000,000 in order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs. The City realized project savings due to lower than anticipated costs and desired to decrease the financing authority for design and construction of the Project. It is therefore necessary to amend the Prior Resolution to support the work on

20" Parallel Force Main from PS #56 to Plant 3

(the "Amended Project") at an estimated cost, including related design and engineering expenses of \$2,300,000 and declared the intention to issue revenue bonds an aggregate principal amount not to exceed \$2,484,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the "Bonds") in order to finance all or a portion of the costs of the Amended Project and related reserves, interest on financing and administrative and financing costs.

The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Amended Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Amended Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Amended Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on _____, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

PAVING BID TABULATION SUMMARY

RQ640715/RQ640716

FB640127		Engineer's Construction Estimate	Cornejo & Sons, LLC	Kansas Paving Company	Pearson Construction
Pawnee, Hydraulic to Grove		\$6,426,725.00	\$7,075,165.16	\$7,423,265.18	\$6,653,526.68
(Pawnee Avenue, east of Hydraulic)	BID BOND			X	
	ADDENDA	6	X	X	X
87N-0597-01/472-85101 (707048/636345/620713)					
		Engineer's Construction Estimate			
Pawnee, Hydraulic to Grove		\$6,426,725.00			
(Pawnee Avenue, east of Hydraulic)	BID BOND				
	ADDENDA	6			
87N-0597-01/472-85101 (707048/636345/620713)					
		Engineer's Construction Estimate			
Pawnee, Hydraulic to Grove		\$6,426,725.00			
(Pawnee Avenue, east of Hydraulic)	BID BOND				
	ADDENDA	6			
87N-0597-01/472-85101 (707048/636345/620713)					
		Engineer's Construction Estimate			
Pawnee, Hydraulic to Grove		\$6,426,725.00			
(Pawnee Avenue, east of Hydraulic)	BID BOND				
	ADDENDA	6			
87N-0597-01/472-85101 (707048/636345/620713)					
		Engineer's Construction Estimate			
Pawnee, Hydraulic to Grove		\$6,426,725.00			
(Pawnee Avenue, east of Hydraulic)	BID BOND				
	ADDENDA	6			
87N-0597-01/472-85101 (707048/636345/620713)					
Award 8-23-16 subject to City Council approve of new Engineer's Estimate and Budget Authorization. Revised Engineer's Estimate \$6,653,526.68.					

CHECKED BY: _____

REVIEWED BY: _____

RESOLUTION NO. 16-229

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 15-365 OF THE CITY OF WICHITA, KANSAS WHICH DECLARED IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER UTILITY OWNED AND OPERATED BY THE CITY, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the “Governing Body”), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the “Utility”); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the “Act”), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body has heretofore by Resolution No. 15-365 of the City (the “Prior Resolution”), found and determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

2016 Reconstruction or Rehabilitation of Aged Sanitary Sewer

(the “Project”) at an estimated cost, including related design and engineering expenses of **\$5,400,000**; and

WHEREAS, the Prior Resolution also determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed **\$5,832,000** in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the “Bonds”) to be payable from the revenues of the Utility; and

WHEREAS, the City now realizes the financing initiated under the Prior Resolution will not suffice for even the design phase of the Project it is therefore necessary to amend the Prior Resolution.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Amendment. *Section 1 and Section 2* of the Prior Resolution are hereby amended to read as follows:

Section 1. Project Authorization. It is hereby determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

2016 Reconstruction or Rehabilitation of Aged Sanitary Sewers

(the “Amended Project”) at an estimated cost, including related design and engineering expenses of **\$6,100,000**. It is hereby further authorized, ordered and directed that the Amended Project be designed, acquired, constructed and/or installed in accordance with plans and specifications therefor prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The Amended Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 2. Project Financing. In order to pay all or a portion of the costs of the Amended Project and related reserves, interest on financing and administrative and financing costs, it is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed **\$6,588,000** (the “Bonds”). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Amended Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures authorized by the Prior Resolution made on or after the date which was 60 days before the date of adoption of the Prior Resolution and to reimburse additional expenditures authorized by this Resolution, which were made on or after the date 60 days before the date of adoption of this Resolution, all pursuant to Treasury Regulation §1.150-2.

Section 2. Notice. Before issuing the Bonds authorized herein, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Amended Project and to issue the Bonds (the “Notice”); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Amended Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Amended Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Amended Project and issuance of the Bonds.

Section 3. Repeal and Ratification. In the event no sufficient protest petition is filed in accordance with the Act against the Amended Project and the Bonds as set forth in **Section 2** hereof, **Sections 1 and 2** of the Prior Resolution are hereby repealed; and the rest and remainder thereof is hereby ratified and confirmed. If a protest petition is filed and/or if a required referendum does not approve the Amended Project and the Bonds, the Prior Resolution remains in full force and effect with respect to the Project and the Bonds authorized therein.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on August 23, **2016**.

(SEAL)

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña, Director of Law
and City Attorney

(Published in *The Wichita Eagle*, on August 26, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the “Governing Body”) of the City of Wichita, Kansas (the “City”), adopted Resolution No. 16-229 , on August 23, 2016, (the “Resolution”). The Resolution amended Resolution No. 15-365 (the “Prior Resolution”) which found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair and improve the City of Wichita, Kansas Water and Sewer Utility (the “Project”), which is owned and operated by the City (the “Utility”), and authorized the issuance of revenue bonds in amount not to exceed \$5,832,000 in order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs. The City desired to increase the estimated costs and financing authority for design and construction of the Project and it is therefore necessary to amend the Prior Resolution to support the work on

2016 Reconstruction or Rehabilitation of Aged Sanitary Sewers

(the “Amended Project”) at an estimated cost, including related design and engineering expenses of \$6,100,000 and declared the intention to issue revenue bonds an aggregate principal amount not to exceed \$6,588,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the “Bonds”) in order to finance all or a portion of the costs of the Amended Project and related reserves, interest on financing and administrative and financing costs.

The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Amended Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Amended Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Amended Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on August 23, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

RESOLUTION NO. 16-230

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 09-095 OF THE CITY OF WICHITA, KANSAS WHICH DECLARED IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER UTILITY OWNED AND OPERATED BY THE CITY, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the “Governing Body”), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the “Utility”); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the “Act”), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body has heretofore by Resolution No. 09-095 of the City (the “Prior Resolution”), found and determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

20” Parallel Force Main from PS #56 to Plant 3 (S-015)

(the “Project”) at an estimated cost, including related design and engineering expenses of **\$3,000,000**; and

WHEREAS, the Prior Resolution also determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed **\$3,000,000** in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the “Bonds”) to be payable from the revenues of the Utility; and

WHEREAS, the City now realizes the financing initiated under the Prior Resolution will not suffice for even the design phase of the Project it is therefore necessary to amend the Prior Resolution.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Amendment. *Section 1 and Section 3* of the Prior Resolution are hereby amended to read as follows:

Section 1. Project Authorization. It is hereby determined that it is necessary and advisable to construct, reconstruct, alter, repair, and improve the Utility in the following manner:

20" Parallel Force Main from PS #56 to Plant 3

(the "Amended Project") at an estimated cost, including related design and engineering expenses of **\$2,300,000**. It is hereby further authorized, ordered and directed that the Amended Project be designed, acquired, constructed and/or installed in accordance with plans and specifications therefor prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The Amended Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 3. Project Financing. In order to pay all or a portion of the costs of the Amended Project and related reserves, interest on financing and administrative and financing costs, it is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed **\$2,484,000** (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Amended Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures authorized by the Prior Resolution made on or after the date which was 60 days before the date of adoption of the Prior Resolution and to reimburse additional expenditures authorized by this Resolution, which were made on or after the date 60 days before the date of adoption of this Resolution, all pursuant to Treasury Regulation §1.150-2.

Section 2. Notice. Before issuing the Bonds authorized herein, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Amended Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Amended Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Amended Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Amended Project and issuance of the Bonds.

Section 3. Repeal and Ratification. In the event no sufficient protest petition is filed in accordance with the Act against the Amended Project and the Bonds as set forth in **Section 2** hereof, **Sections 1 and 3** of the Prior Resolution are hereby repealed; and the rest and remainder thereof is hereby ratified and confirmed. If a protest petition is filed and/or if a required referendum does not approve the Amended Project and the Bonds, the Prior Resolution remains in full force and effect with respect to the Project and the Bonds authorized therein.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on August 23, **2016**.

(SEAL)

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña, Director of Law
and City Attorney

(Published in *The Wichita Eagle*, on August 26, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the “Governing Body”) of the City of Wichita, Kansas (the “City”), adopted Resolution No. 16-230 on August 23, 2016, (the “Resolution”). The Resolution amended Resolution No. 09-095 (the “Prior Resolution”) which found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair and improve the City of Wichita, Kansas Water and Sewer Utility (the “Project”), which is owned and operated by the City (the “Utility”), and authorized the issuance of revenue bonds in amount not to exceed \$3,000,000 in order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs. The City realized project savings due to lower than anticipated costs and desired to decrease the financing authority for design and construction of the Project. It is therefore necessary to amend the Prior Resolution to support the work on

20” Parallel Force Main from PS #56 to Plant 3

(the “Amended Project”) at an estimated cost, including related design and engineering expenses of \$2,300,000 and declared the intention to issue revenue bonds an aggregate principal amount not to exceed \$2,484,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the “Bonds”) in order to finance all or a portion of the costs of the Amended Project and related reserves, interest on financing and administrative and financing costs.

The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Amended Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Amended Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Amended Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on August 23, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: HOME Program: Housing Development Loan Program Allocation, Ross Parkway Apartments, Inc. (District I)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the HOME Program funding allocation and authorize the necessary signatures.

Background: On August 2, 2016, the City Council approved final allocations from the 2016-2017 Third Program Year Action Plan, which included \$250,000 in HOME Investment Partnerships Program (HOME) funding for the Housing Development Loan Program (HDLP). The HDLP is designed to provide subsidies for infill housing projects, to support the development of real estate that is idle or underutilized, and to provide needed housing for underserved populations. Funding is available for non-profit or for-profit organizations. The loan structure is dependent upon the type of project to be financed. The funding must be utilized within the boundaries of the City's Redevelopment Incentives Area (RIA), Neighborhood Revitalization Area (NRA) or Local Investment Areas (LIA), according to the City Council and HUD-approved Consolidated Plan. Requests for funding under the program are received on an open application basis.

Analysis: HOME funds have been essential for the development of housing that is affordable for income-eligible owner-occupant homebuyers in the City's targeted areas because the lower predominant values in existing neighborhoods make it difficult to fully recover the costs of acquisition, construction and demolition from the sales price. HOME funds are made available for construction of single-family homes in the form of a development subsidy loan to offset acquisition, construction and site improvement expenses, as well as selling expenses and developer fees. The current maximum selling price for HOME-funded homes is \$95,550.

All homes constructed with HOME funding provided through the HDLP must be sold to income-eligible owner-occupant homebuyers who will receive down payment/closing costs assistance loans through the City's HOMEownership 80 Program.

Ross Parkway Apartments, Inc., has requested funding from the HDLP in the amount of \$59,500 to finance a project located at 1458 N. Volutsia. Ross Parkway Apartments, Inc. is a for-profit developer. The project involves demolition of an existing blighted single-family home, and construction of a new home on the site.

The HOME program requires an environmental review prior to start of a HOME-funded project. Environmental review conditions for houses to be constructed in existing neighborhoods typically include design requirements, such as side-load garages at the rear of house structures, covered front porches, noise mitigation, and requirements for the installation of radon systems. In addition, homes constructed with HOME funding must comply with Energy Star, which exceeds building code requirements for the City of Wichita. These requirements add to the cost of construction and when combined with

predominant values in the neighborhood, increase the subsidy that is required in order to develop new single-family housing.

Financial Considerations: The total development cost is estimated to be \$150,700. Staff proposes a HOME funding allocation of \$59,500 for the project, which will be provided in the form of a zero-interest, forgivable participation construction loan. A local bank will provide a construction loan equivalent to 70% to 75% of the appraised value of the home to be constructed.

Legal Considerations: The Law Department has reviewed and approved the funding agreement as to form.

Recommendations/Actions: It is recommended that the City Council approve the HOME Program funding allocation and authorize the necessary signatures.

Attachment: Funding agreement.

FUNDING AGREEMENT
Between
THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And
Ross Parkway Apartments, Inc.
A For-Profit Housing Developer
HOME Investment Partnerships
Program
2016 Housing Development Loan Program Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700

No. _____

AGREEMENT

THIS CONTRACT, dated **August 23, 2016**, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as "the City") and Ross Parkway Apartments, Inc., a non-profit developer, hereinafter referred to individually as the "Developer").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the

purposes of this contract. The construction phase of this contract shall be complete by **September 30, 2017**, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of each unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Should it be necessary to convert a housing unit developed under this agreement to a rental unit as described in section IV of Exhibit B of this agreement, the contract will otherwise remain in force through the period of affordability which will end on a date 20 years following the date of completion of the unit, as defined in 24 CFR 92.2. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. Immediate family members of an officer, employee, agent,

elected or appointed official or consultant of an owner, developer, or sponsor are prohibited from occupying a HOME-assisted affordable housing unit in a project. This restriction, with respect to occupancy, applies during the period of affordability only, and not to the entire period of ownership by the entity receiving the HOME assistance. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u

(Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act. Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed \$59,500 as referenced in Exhibit B. Contract payments above \$59,500 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 30, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement. The Developer further agrees to transfer ownership of any properties that are the subject of incomplete projects that have been funded under this agreement to the City, or as directed by the City, in order to facilitate project completion, as required under the HOME regulation.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Developer agrees to comply with all applicable standards, orders, or

regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. FEDERAL ENVIRONMENTAL REVIEW AND APPROVAL PROVISIONS.

A. In accordance with 24 C.F.R. Part 58.22, the developer agrees to refrain from undertaking any physical activities or choice limiting actions until the City has approved the project's environmental review. Choice limiting activities include acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

B. This agreement does not constitute an unconditional commitment of funds or site approval. The commitment of funds to the project may occur only upon satisfactory completion of the project's environmental review in accordance with 24 CFR Part 58 and related environmental authorities. Provision of funding is further conditioned on the City's determination to proceed with, modify, or cancel the project based on the results of the environmental review.

C. The Developer agrees to abide by the special conditions, mitigation measures or requirements identified in the City's environmental approval and shall ensure that project contracts and other relevant documents will include such special conditions, mitigation measures or requirements.

D. Until the City has approved the environmental review for the project, neither the Developer nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance to the project or activity.

E. The Developer agrees to provide the City with all available environmental information about the project and any information which the City may request in connection with the conduct and preparation of the environmental review, including any reports of investigation or study which in the City's opinion is needed to fulfill its obligations under HUD environmental requirements.

F. The Developer agrees to advise the City of any proposed change in the scope of the project or any change in environmental conditions, including substantial changes in the nature, magnitude, extent or location of the project; the addition of new activities not anticipated in the original scope of the project; the selection of an alternative not in the original application or environmental review; or new circumstances or environmental conditions which may affect the project or have bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity.

SECTION 17. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 18. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 19. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with the applicable requirements of 2 CFR 200, specifically, Standards for Financial Management systems, as follows:

- (a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.
- (b) Developer's financial management systems shall provide for the following:
 - (1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in 2 CFR Sections 200.327 and 200.328. If a recipient maintains its records on other than an accrual basis, the developer shall not be required to establish an accrual accounting

system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 20. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 21. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

SECTION 22. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 23. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 24. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 25. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits

discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 26. AFFORDABILITY- HOMEOWNERSHIP. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. Upon completion of construction/issuance of a Certificate of Occupancy, the property is to be re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 27. AFFORDABILITY-RENTAL. Rental housing assisted with HOME funds must meet the affordability requirements specified at 92.252 of the HOME Regulation (24 C.F.R. Part 92), as applicable. HOME funds must be re-paid to the City by the Owner if the housing does not meet the affordability requirements for the specified time period (20 years).

SECTION 28. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department, payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 29. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation

standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet be certified to be compliant with the current version of Energy Star. (Developer to provide certification.)

SECTION 30. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 31. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

SECTION 32. FEES. The developer cannot charge servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.

Exhibit A: Revised Non-Discrimination & Equal Employment
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Exhibit D: Development Budget

Ross Parkway Apartments, Inc.

Signature

Title of Ross Parkway Apartments, Inc. Officer

Date

**CITY OF WICHITA, KANSAS
at the Direction of the City Council**

Jeff Longwell, Mayor

Date

ATTEST:

Karen Sublett, City Clerk

Date

Approved as to Form:

Jennifer Magana
City Attorney and Director of Law

Date

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
- D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

PERFORMANCE CRITERIA
AND
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Ross Parkway Apartments, Inc., hereinafter referred to as the "City" and "Developer" respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the \$59,500.00 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition and redevelopment of sites as follows:

1458 N. Volutsia, PIN 139536

A single-family home is to be constructed on the respective site(s). The single-family home(s) must be sold to (an) income-eligible owner-occupant buyer(s). If any of the single-family homes are not sold as described, within a period of nine (9) months following issuance of a Certificate of Occupancy by the City of Wichita, the unsold home(s) must be converted to a single unit HOME-assisted rental project as described in Section IV of this Exhibit "B".

Housing constructed/developed under this agreement must be sold to a HOME-compliant owner-occupant buyer, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The City hereby commits funding for said down payment and closing costs assistance loan(s), in the maximum amount of \$21,110 per housing unit, or a total of \$21,110, in addition to applicable and eligible homebuyer training costs.

The Developer represents and agrees that its purchase of property and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

Sales prices of homes to be constructed/developed under this agreement shall be as follows:

Single-Story, Two Bedroom, One Bath, Two-Car Garage, Full Unfinished Basement: \$85,700

Single-Story, Two Bedroom, One Bath, Two-Car Garage, Full Basement with One Bath, One Bedroom Finished in Basement: \$90,450

Single-Story, 2-Bedroom, One Bath, Two-Car Garage, Two Bedrooms, One Bath Finished In Basement: \$92,200

Single-Story, 3-Bedroom, One Bath, Two Car Garage, Full Unfinished Basement: \$95,550

(Prices may be increased, subject to approval by the City of Wichita's Housing and Community Services Department, for certain modifications or additional bedroom or bathroom finish requested by buyer.)

The Developer represents and agrees that it will remain the owner of the property until it reaches agreement with a prospective buyer(s) of the property and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

- A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of Energy Star. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

- B. Prior to executing any contracts for sale of assisted properties, the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

- A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of a 0% interest development subsidy loan to complete the project as approved by the Department of Housing and Community Services.

- B. Upon execution of this contract, the Developer shall proceed to complete acquisition of the individual project sites as described herein, upon completion of environmental reviews or within 60 days of execution of this agreement, whichever date comes later. An extension of time for site acquisition may be approved by the City of Wichita Housing and Community Services Department on a case-by-case basis.
- C. Developer will identify potential owner-occupant buyers for the homes to be constructed, will assist them in applying for and securing first mortgage financing, will assist them in applying for down payment assistance loans to be provided by the City, and will coordinate final closings. The Developer is prohibited from charging servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.
- D. Developer shall complete closing of construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 70% or more of the appraised value of the home to be constructed, as approved by the City, within 60 days of the acquisition of the project sites, or within 60 days of signing a purchase agreement with an owner-occupant buyer who has obtained a written commitment for long-term mortgage financing, whichever date comes later.
- E. The Developer shall commence construction activities at each individual project site within 45 days of construction loan closing, but no later than 360 days from the date of execution of this funding agreement. Each single family home is to be completed within a period of six months. Final site improvements are to be completed as seasonally appropriate.

III. Administration

The president of Ross Parkway Apartments, Inc. will supervise operations and administration on a day-to-day basis.

- A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available for this project will be \$59,500.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment. Further, it is mutually agreed by and between the

City and the Developer that the City will commit a maximum of **\$21,110** for a down payment assistance loan to be provided to an eligible buyer of the single-family home to be developed, as described above, in the fourth paragraph of this Exhibit "B".

- B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of **\$59,500.00** for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with a completed project. The developer fee will be pre-determined at the onset of the construction of the home, and will be paid upon the closing of the sale of the individual home. Proceeds from the sale of the home, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of the development subsidy loan provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of the completed home. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)

\$ 59,500.00

TOTAL

\$ 59,500.00

- C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.
1. The City and Ross Parkway Apartments, Inc. also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.
 2. Ross Parkway Apartments, Inc. will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

IV. Conversion of Homeownership Activities (Sites) to Rental Projects

In the event that a single-family home and real estate developed under this agreement has not been sold to an eligible homebuyer, as evidenced by a ratified sales contract, within six months of completion, the unit must be converted to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such unit (20 years), as described in this Section IV. For purposes of this Section IV, the “Developer” shall become the “Owner”, and the following additional requirements of this Section IV shall apply:

A. Project Requirements

1. Project must conform to regulations under 24 CFR Part 92, commonly known as the HOME Regulations.
2. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, Property Standards, Tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR 92.252, Qualification as affordable housing: Rental Housing. The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the requirements of this part, in order to qualify as affordable housing.

24 CFR 92.253, Tenant and participant protections apply, and are related to lease terms, termination of tenancy, and tenant selection.

24 CFR 92.504, Required Annual On-Site Inspections of HOME-assisted Rental Housing.

B. Initial rents for HOME-assisted units are as follows, per current HUD guidelines:

2 Bedroom: \$742- \$198 (Utility Allowance) = \$544.00

3 Bedroom: \$856 - \$229 (Utility Allowance) = \$627.00

4 Bedroom: \$956 - \$275 (Utility Allowance) = \$681.00

These rents assume that homes constructed under this program will feature gas heat and gas water heating, an electric range, electric air conditioning, with other electric appliances and electric lighting. Electric ranges are to be provided. The tenant will pay for all utilities, including water service, sewer service, and trash service. If utilities are to be provided in an alternative manner, the Owner will notify the City so that HOME rents can be re-calculated. HOME rents are subject to revision by HUD on an annual basis. HOME assisted units will be subject to rent limitations and other requirements specified in Section 92.252, during the period of affordability.

Should any of the units developed under this agreement be converted to rental housing, the Rent and Utility Allowance schedule shall be approved and issued for use by the Developer, by the City of Wichita's Housing and Community Services Staff, at the time of conversion.

The Owner is also required to lease the HOME-assisted unit to households earning 60% or less of median annual income for the area, as determined by HUD. This requirement, in addition to the other requirements in Section 92.252, will be in effect during the period of affordability.

Units with four bedrooms may be allowed on a case-by-case basis, subject to City approval. The City will provide HOME rent amounts and utility allowances as required.

- C. Procedures for Rent Increases: The Owner will submit requests for rental increases 60 days prior to the effective date of the proposed rent increase for approval by the City of Wichita's Housing and Community Services Department staff.
- D. Leases, Tenant Selection Policies, and standards for its waiting lists will comply with 24 CFR Part 92.253, and the Owner will submit these documents to City staff for review and approval, prior to lease-up.
- E. The Owner shall maintain project/tenant records for a period of no less than five years.
- F. Owner agrees to inspection of all HOME-assisted units following completion to ensure compliance with the requirements of 24 CFR Part 92.251 (a) (1) and (3). The Owner must maintain the housing in compliance with 24 CFR Part 92.251 for the duration of the affordability period, and agrees to inspection of the HOME-assisted units on an annual basis, in order to verify continued compliance with 24 CFR Part 92.251 and 24 CFR Part 92.252.
- G. Owner agrees to execute a document placing deed restrictions and covenants against the property in order to comply with 24 CFR Part 92.252. Said restrictions

and covenants will be in force for the period of affordability, which is 20 years, beginning the date of project completion. Definition of project completion is specified in 24 CFR, Part 92.2. Said document will be filed of record by the City.

- H. Owner agrees to comply with the Fair Housing and Equal Opportunity Act. (92.202 and 92.250), Title VI of Civil Rights Act of 1964, (42 USC 2000d et.seq.), Fair Housing Act (42 USC3601-3620) Executive Order 11063 (amended by Executive order 12259), Age Discrimination Act of 1975, as amended (42 USC 6101), 24 CFR 5.105 (a).
- I. Owner must comply with federal requirements set forth in 24 CFR part 5, subpart A. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace. Nondiscrimination requirements at section 282 of the Act are applicable.
- J. Owner must comply with the affordability requirements in 24 CFR Part 92.252 as applicable. If Owner fails to comply with the affordability requirements in 24 CFR Part 92.252 repayment of HOME funds is required.
- K. The Owner/Project Management must verify the income of tenants of HOME-assisted units prior to occupancy, per the requirements of 24 CFR Part 92.203 (a) (1) (I). Copies of source documentation are required to be maintained in tenant files. Project Management must re-examine the income of tenants of HOME-assisted units on an annual basis. Project Management will utilize the definition of annual income described in 24 CFR Part 92.203 (b) (1), also known as the Section 8 Method.
- L. The Owner/Project Management agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for projects containing five or more HOME-assisted units. The Affirmative Marketing Plan must be available for public inspection in the leasing office. The plan must contain specific steps and actions that the developer will take to provide information and otherwise attract eligible persons of all racial, ethnic, and gender groups in the housing market area of the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:
 - 1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
 - 2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period
 - 3. Send notices of housing availability (using form approved by the City) to

agencies from a list provided by the City.

4. Provide copies of all materials sent to community contacts announcing the housing availability to the City of Wichita Housing Services Department.
5. No later than 90 days prior to engaging in marketing activities, the Agency should notify the City of Wichita Housing Services Department, either in writing or by telephone of the earlier of the dates on which: (1) the Agency plans to begin initial marketing activities; (2) accepts leasing applications; and (3) begins leasing units.
6. The Owner must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.
7. The Owner will retain copies of all documentation related to marketing efforts, and make available for City inspection.
8. The Owner will provide, for the year ending June 30 of each year, beginning **June 30, 2017**, an annual report, in a format to be provided by the City. Said report shall be due to the City of Wichita July 10 of each applicable year.

V. Records and Reports

- A. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.
- B. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2017, an annual report of the HOME funded portion of the program.** It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developer's fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-

owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

- C. Additionally, a narrative or other description of progress may be provided.
- D. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

VI. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

- A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home is re-sold, as specified in this agreement.
- B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.
- C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.
- D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.
- E. Provide evidence that ownership interest in the property vests in Ross Parkway Apartments, Inc. (Copy of Deed, and/or Title Insurance Binder/Policy)
- F. The Developer will obtain any and all permits required by the City prior to undertaking construction.
- G. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 70% of the appraised value of the home to be developed/constructed on each project site. Developer to provide a construction loan appraisal for each individual home to be constructed under this agreement, which is to be reviewed and approved by the City, prior to construction.

- H. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.
- I. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.
- J. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with the City of Wichita Office of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the City of Wichita Office of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.
- K. The Developer shall submit any subdivision plats, street designs, variance requests, lot split requests, or any other documentation regarding zoning adjustments required to carry out construction of a home or a group of homes to the Housing and Community Services department for review and approval, prior to submission to the Wichita/Sedgwick County Metropolitan Area Planning Department, or the Wichita/Sedgwick County Metropolitan Area Planning Commission.
- L. In addition to the above, the Developer agrees to provide any additional documentation deemed necessary by the City to comply with program regulations, including, but not limited to, real estate contracts and mortgage loan commitment documentation.

VII. Other Program Requirements

- A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for projects

containing five or more HOME-assisted units. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display of the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
 2. Display of the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.
 3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.
 4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.
 5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.
- B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.
- The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.
- C. Site Improvements: The City may require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, seeding or sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.
- D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

- E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.
- F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.
- G. Developer shall apply for applicable City incentives for projects undertaken with funding provided under this agreement, including but not limited to permit fee waivers.

VIII. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in progress reports.

IX. Project Close-Out

The Developer shall provide all records and reports as deemed necessary by the City, in order to satisfy federal requirements related to final reporting and project close-out, in accordance with established HUD procedures.

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)

\$ 59,500.00

TOTAL

\$ 59,500.00

DEVELOPMENT BUDGET

Per Unit Cost (Prepare for One Unit)

(A) Site Acquisition Cost	10,000.00
(B) Plus: Construction (Hard) Costs Including Demolition	115,000.00
(C) Plus: Project Soft Costs (Loan Fees, Interest, Appraisals, Property Taxes, Surveys, Utilities, Advertising/Affirmative Marketing Expense, etc.)	9,000.00
(D) Plus: Estimated Permit Fees (Include Water/Sewer Tap Fees if Applicable – Enter “0.00” if project is to be undertaken in the City NRA)	0.00
(E) Plus: Required Site Improvements (Fencing; Lawn Seeding)	3,000.00
(F) Subtotal (A+B+C+D+E); Preliminary Per-Unit Development Cost	137,000.00
(G) Plus: Developer Fee	13,700.00
(H) Total Per-Unit Cost (F + G)	150,700.00
(I) Less: Anticipated Net Sale Proceeds, after expenses and real estate commission	88,200.00
(J) Less: Cash Match Contributions (Other Sources Contributed to the Project, on a per-unit basis, such as AHP development subsidy.)	3,000.00
(K) Project Subsidy (Gap Financing) Required, per unit (H – I – J)	59,500.00

<u>Sources</u>	<u>Amount</u>	<u>Uses</u>	<u>Amount</u>
Construction Financing	67,500.00	Acquisition Costs	10,000.00
Material Discounts	3,000.00	Project “Soft” Costs	9,000.00
HOME (Gap) Financing	59,500.00	Construction Costs	115,000.00
Repayment of Subsidy Loans	20,700.00	Site Improvements	3,000.00
		Developer Fee	13,700.00
<u>TOTAL</u>	150,700.00	<u>TOTAL</u>	150,700.00

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: 2017 Drug Enforcement Administration (DEA) State and Local Task Force

INITIATED BY: Wichita Police Department

AGENDA: Consent

Recommendation: Approve continued participation in Drug Enforcement Administration State and Local Task Forces.

Background: Since 1983, the Wichita Police Department (WPD) has assigned two full time detectives to the Drug Enforcement Administration (DEA) to assist in narcotic and dangerous drug trafficking investigations in Wichita and the surrounding communities, as a member of the State and Local Task Force. In addition to the WPD, the DEA Task Force includes agents from the Sedgwick County Sheriff's Office, Kansas Bureau of Investigation, Kansas National Guard, Kansas Highway Patrol, Haysville Police Department and Immigration and Custom Enforcement. The current agreement expires September 30, 2016.

Analysis: The Wichita DEA office is focused on large scale drug organizations that operate regionally and have a direct connection to Wichita and the surrounding communities, based on Wichita's geographic access to three major drug corridors. Those corridors, I-35, I-70 and US-54, make Wichita attractive to major drug organizations attempting to establish distribution networks. DEA and its Task Force partners, including the WPD, work to identify, dismantle, and prosecute suspects attempting to bring large quantities of drugs into Wichita. Through the Wichita DEA office, the Task Force participates in large scale investigations, many of which ultimately have national impact. During 2015-2016, the local Task Force initiated 23 major cases and made 28 felony arrests connected with drug trafficking with several federal indictments pending. A continuation of the agreement between the DEA and the WPD provides the City of Wichita and its residents with additional resources in an effort to identify and prosecute individuals and organizations that traffic narcotics and dangerous drugs in this community.

Financial Considerations: DEA reimburses the WPD for overtime up to \$17,753 per Task Force officer, per year for a total amount of \$35,506. Participation in the Task Force entitles the department to share in a portion of federal seizures, enhancing the department's resources for drug crime investigation. The WPD is responsible for the base salary and benefits of the detectives.

Legal Considerations: The agreement has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve continued annual participation in DEA State and Local Task Forces and approve the budget for the fiscal year beginning October 1, 2016. The approval would authorize the Chief of Police to sign the agreement.

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: Amendment of Contract for Labor Negotiation Consultant for Legal Services

INITIATED BY: Department of Law

AGENDA: Consent

Recommendation: Approve the amended contract for the City's labor negotiation consultant.

Background: In 2006, the City of Wichita entered into a contract with McAnany, Van Cleave & Phillips, P.A. law firm to serve as the City's labor negotiation consultant. The consultant is currently representing the City in a matter filed by the International Association of Firefighters (IAFF), which is pending before the Public Employees Relation Board (PERB). Additional funding is necessary to complete representation of the City in this matter. Once this matter is concluded, it is anticipated that PERB matters will be handled by Law Department staff. If additional outside legal services are required, a new Request for Proposal will be issued at that time.

Analysis: The law firm provides professional services to the City in matters before PERB. Based on the high quality services provided by the law firm and the pending legal matters, it is recommended that the firm be retained for the completion of all matters with which it is involved. The current firm has not increased its rates or fees charged since the contract was entered into in 2006. The last contract extension was approved in April 2015.

Financial Considerations: The contract is for an additional amount not to exceed \$40,000. The hourly rate and expense items for the legal consultation services are the same as the original contract. The Finance Department is authorized to make any necessary budget adjustments.

Legal Considerations: The Law Department drafted the contract and has approved it as to form.

Recommendations/Actions: It is recommended that the City Council approve the contract, authorize the Mayor to sign, and approve any necessary budget adjustments.

Attachment: Ninth Amendment to Agreement for Professional Services.

NINTH AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

By and Between

**THE CITY OF WICHITA, KANSAS
and
ATTORNEYS
McANANY, VAN CLEAVE & PHILLIPS, P.A.**

THIS AGREEMENT made and entered into on this 4th day of August, 2016, is an amendment to the Agreement originally executed on July 11, 2006, hereinafter (the "Initial Agreement"), and subsequently amended on February 13, 2007, April 9, 2007, December 1, 2009, May 25, 2010, December 28, 2010, April 2013, March 2014 and April 12, 2015 by and between the City of Wichita, Kansas (hereinafter the "City") and McAnany, Van Cleave & Phillips, P.A. (hereinafter the "Attorneys").

WITNESSETH:

WHEREAS, pursuant to the Initial Agreement, the Attorneys were retained by the City to provide legal services in connection with negotiations and matters related to labor relations;

WHEREAS, the initial amount authorized as compensation for the Attorneys in the Initial Agreement was for a sum not to exceed \$75,000.00, and the subsequent agreements provided for additional expenditures of \$354,000.00; and

WHEREAS, it has become necessary to amend the Initial Agreement to permit additional expenditures of an amount not to exceed \$40,000.00 for legal services for matters pending before the Kansas Public Employees Relation Board (PERB).

NOW THEREFORE, IT IS MUTUALLY AGREED by and between the parties hereto as follows:

1. Paragraph 7 of the Initial Agreement is hereby modified and amended to read as follows:

In no event shall the total compensation, including fees and expenses, pursuant to this Agreement exceed the sum of three hundred ninety-four thousand dollars (\$394,000.00), unless specifically authorized by the City Council of the City of Wichita, Kansas.

2. In all other respects, the terms and provisions of the Initial Agreement, as amended, between the parties hereto shall remain in force and effect as the same were originally approved by the parties in the Initial Agreement.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

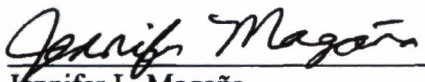
THE CITY OF WICHITA, KANSAS

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:



Jennifer L. Magaña
City Attorney and Directory of Law

McANANY, VAN CLEAVE & PHILLIPS, P.A.



Carl A. Gallagher

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: MAPC/MAPD Interlocal Agreement and Joint Ordinance/Resolution

INITIATED BY: Department of Law

AGENDA: Consent

Recommendation: Approve the agreement and joint ordinance/resolution.

Background: Under K.S.A. 12-744 (c), any two or more cities or counties of this state may cooperate, pursuant to written agreement, in the exercise and performance of planning powers, duties, and functions. Any such agreement shall be subject to the provisions of K.S.A. 12-2901, et seq., and amendments.

When two or more of such cities or counties, by ordinance of each city and by resolutions of the boards of county commissioners, enter into agreements providing for such joint planning cooperation, there may be established a joint planning commission for the metropolitan area or region comprising that portion of the areas of planning jurisdiction of the cities or counties cooperating jointly as shall be designated by the joint ordinances and resolutions. Such a joint planning commission for the metropolitan area or region may be empowered to carry into effect such provisions of state law relating to planning which are authorized for such joining cities or counties and which each may, under existing laws, separately exercise and perform.

In 1958, the City of Wichita and Sedgwick County entered into an agreement for joint planning by joint resolution and ordinance #23-350, which was amended on December 19, 1967; June 26, 1973; and October 9, 1991. Due to the passage of time, it has become necessary to create a new agreement to reflect current terms and conditions.

Analysis: This agreement clarifies duties of the parties with respect to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Metropolitan Area Planning Department and becomes effective upon execution by both parties and approval, or lack of rejection within 90 days of receipt, of the Kansas Attorney General. Upon such approval, the agreement will be filed with the Sedgwick County Register of Deeds and the Kansas Secretary of State.

Financial Considerations: None.

Legal Considerations: The Law Department has approved the agreement and joint ordinance/resolution as to form.

Recommendations/Actions: It is recommended that the City Council approve the agreement and joint ordinance/resolution and authorize the necessary signatures.

Attachments: MAPC/MAPD Interlocal Agreement
Joint Ordinance/Resolution

INTERLOCAL AGREEMENT

THE CITY OF WICHITA, KANSAS, AND THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON THIS _____ DAY OF _____, 2016, CONCURRENT WITH THE ADOPTION OF A JOINT ORDINANCE-RESOLUTION REGARDING THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION AND THE METROPOLITAN AREA PLANNING DEPARTMENT, DO HEREBY AGREE TO THE FOLLOWING:

1. Joint Ordinance and Resolution. Within a Joint Ordinance-Resolution, the City of Wichita, Kansas (“City”) and Sedgwick County, Kansas (“County”), through their governing bodies, have agreed to enter into joint and cooperative action as described within this Interlocal Agreement (“Agreement”). This Agreement is entered into pursuant to K.S.A. 12-744(c) and 12-2901 *et seq.*

2. Effective Date, Original Term, Renewal, and Notice of Termination. The term of this Agreement will begin on its effective date, which will occur once it has been approved by the Kansas Attorney General pursuant to K.S.A. 12-2904(g) and filed with both the Kansas Secretary of State and the Sedgwick County Register of Deeds pursuant to K.S.A. 12-2905. This Agreement shall be perpetual in duration unless and until either party notifies the other party in writing of its decision to terminate the Agreement. Any such written notice of termination or partial termination will not become effective until ninety (90) days from the date it is sent, or any such date greater than ninety (90) days in the future that is specified within the notice.

3. Planning Commission, Membership, Term, and Compensation. The Wichita-Sedgwick County Metropolitan Area Planning Commission (“Commission”) shall consist of fourteen (14) members, seven (7) of whom shall be appointed by the Mayor of the City by and with the consent of the City Council, and seven (7) of whom shall be appointed by a majority vote of the Board of County Commissioners, upon the recommendation of each individual County Commissioner for five (5) members and with two (2) at-large members.

All appointments made by the Board of County Commissioners shall be for four (4) years from the date of appointment and until their successors have been duly appointed.

All appointments made by the City Council shall be made in accordance with City Code Sections 2.12.010, 2.12.020, and 2.12.030.

Any members of the Wichita-Sedgwick County Metropolitan Area Planning Commission who are serving at the time this Agreement is entered into shall continue to serve the remainder of their terms.

In case of death, incapacity, resignation or disqualification of any member, the party making the appointment of such member shall appoint another member for the unexpired term of such deceased, incapacitated, resigned or disqualified member.

Any person residing within the City of Wichita city limits shall be eligible for appointment by the City by and with the consent of the City Council. Any person residing within Sedgwick County (including incorporated areas) shall be eligible for appointment by the County.

Members of the Commission shall serve without compensation.

4. Purpose. The purpose of this Agreement is to provide for the joint planning authority, responsibilities and functions as permitted by K.S.A. 12-741 *et seq.*, as amended.

5. Meetings, Officers, Prior Action, Quorum. The Commission shall convene for its meetings at such time and place as shall be fixed by the Commission, and shall meet not less frequently than once per month.

The Commission shall elect one member as Chair and one member as Vice Chair. The terms of the Chair and Vice Chair shall be for one (1) year and until a successor has been elected and qualified. The Commission shall elect a Secretary and may also elect an Assistant Secretary. Both the Secretary and Assistant Secretary may be persons who are not members of the Commission. If a Secretary or Assistant Secretary is not a member of the Commission, said Secretary or Assistant Secretary would serve in an ex officio, non-voting capacity. The Secretary shall cause a proper record to be made and preserved of all the proceedings of the Commission.

Any of the following that have been approved, completed, or established by the Wichita-Sedgwick County Metropolitan Planning Commission prior to this Agreement shall continue in full force and effect: bylaws, policies, subcommittee(s), election of officers, and provision of notices.

The Commission may further adopt new bylaws or amend existing bylaws for the transaction of business and hearing procedures.

Special meetings of the Commission may be called by the Chair, or in his or her absence, by the Vice Chair, on not less than twenty-four (24) hours' notice, such notice to be by mail or personal service by the Secretary or the Secretary's representative, at the address given to the Secretary by such member.

A quorum shall consist of a majority of the members of the Commission appointed and qualified at any given time. Accordingly, any vacancy that exists shall reduce the size of the Commission for purposes of determining a quorum.

6. Commission Authority, Function, Responsibilities. The Commission shall have such power and duties as may be prescribed by law from time to time, including but not limited to those responsibilities in K.S.A. 12-741 *et seq.*, as amended, and any local ordinances and resolutions. As a primary function, the Commission shall have the responsibility for the preparation, adoption, recommendation and maintenance of a long-range comprehensive plan, pursuant to K.S.A. 12-747 *et seq.*, as amended.

The Commission shall assume and perform all powers, duties and functions heretofore vested in the previously constituted Wichita-Sedgwick County Metropolitan Area Planning Commission.

7. Wichita-Sedgwick County Metropolitan Area Planning Department. The Wichita-Sedgwick County Metropolitan Area Planning Department's ("Department") responsibilities pertain to land use planning and zoning, as permitted by law. This includes, but is not limited to items referenced in K.S.A. 12-741, *et seq.* The Director of the Department shall be appointed by the City Manager and the County Manager, by joint appointment. All subordinate employees within the Department shall be appointed by the Director. The Director shall serve at the pleasure of the City Manager and the County Manager. The Director's job performance will be annually evaluated by both the County Manager and the City Manager. Performance issues shall be addressed through an evaluation and improvement plan, jointly developed by the County Manager and City Manager, which uses objective performance measures and identifies corrective actions, if needed. In the event that either the County Manager or the City Manager, are displeased with the Director's performance, a performance plan can be implemented which describes the sought after change in performance.

The Director and current and future employees within the Department will remain as employees of the City. Employees of the Department shall also be considered City employees for the purposes of the defense of claims under the Kansas Tort Claims Act.

8. Budget, Disbursing Agent. On an annual basis, by a date jointly agreed upon by the County Manager and the City Manager, the Department shall submit to both managers a proposed budget of income and expenditures for the ensuing fiscal year for the Department. The Managers will then make their budget recommendations to their respective governing bodies. Such proposed budget, either as submitted or as the same may be amended, will be approved and adopted by said governing bodies. The two bodies must agree what the total annual budget of the Department will be. The City and County reserve their respective statutory authorities and responsibilities regarding budget, tax levy, and other funding matters, but it is agreed herein that each will appropriate an amount equal to fifty percent (50%) of the agreed upon budget for the Department. The City Treasurer is hereby designated as the custodian and disbursing agent for the total budget.

9. Revenues, Fees, Charges, Assessments, and Payments. All revenues, fees, charges or assessments collected by the Department will be remitted daily to the City Treasurer. Sedgwick County will make four (4) equal quarterly payments to the City each year that this Agreement is in place. Said payments shall equal one-fourth (1/4) of the amount of funds budgeted by the Board of County Commissioners for that particular year's budget. The payments shall be made such that they are received by the City Treasurer not later than March 31st, June 30th, September 30th, and December 31st of each year that this Agreement is in place. If the Department's expenses for each calendar year are less than the total funds budgeted by the City and County and the fees or other revenue received by the Department, any surplus shall be refunded to each party equal to the proportion of their contributions for that budget year.

10. Accounting, Purchasing, Administrator. The City will maintain accounting records for each revenue and expenditure of the Department. All purchases for the Department will be processed by the purchasing department of the City in the name of the City.

The City will process all Department payroll.

The City will provide to the County timely quarterly financial reports disclosing the revenues and expenditures for the year to date compared with the budgets.

The City agrees to provide the County with an annual certified audit of City-County revenues and expenditures for the Department.

The City shall serve as the administrator for the Department.

11. Equipment and Maintenance of Records. The City will provide the office equipment, computer hardware and software, office furniture, and other items necessary for the Department which are presently used by the Department. Replacement of any of the aforementioned items will be paid for from the annual Department budget approved by the parties' governing bodies. The City shall be responsible for the maintenance and storage of all records for the Department.

The City will be responsible for providing, insuring, and paying the vehicle registration fees for any necessary vehicles for Department staff to complete their duties.

12. Personal Cars –Parking. Department employees shall have all parking rights and privileges and to the same extent as other employees of the City and County, with respect to the specific location(s) where such employees are based.

13. Legal Matters and Representation. All legal matters involving zoning or subdivision rules and regulations, vacation and dedication occurring within the City of Wichita or within any area by law determined to be within the jurisdiction of the City of Wichita shall be the responsibility of the City Law Department. All legal matters involving zoning or subdivision rules and regulations, vacation and dedication occurring within the unincorporated area or within any area by law determined to be within the jurisdiction of Sedgwick County shall be the responsibility of the County Counselor's Office.

14. Workers Compensation, Unemployment Compensation, Retirement etc. The City will be responsible for all Department employees' claims for workers compensation, unemployment payments, social security, employee retirement, health insurance, life insurance, and any other benefits that may be provided by the City to its employees. These costs will be considered as part of the Department budget for which the parties are jointly responsible.

15. Disposition of Property and Equipment Upon Termination.

This section shall apply to all property and equipment that is specifically and primarily used by the Department in its operations, as defined within this Agreement.

A. Property Owned by a Single Party.

If this Agreement is terminated for any reason, ownership of equipment, real property or other assets owned entirely by either party, whether before or after the start of this Agreement, shall be returned to that party with established ownership rights.

1. Property and equipment owned solely by the County at the start of this Agreement includes, but is not limited to the following:
 - a. The real property located at 271 West 3rd Street, Wichita, Kansas, including any fixtures on said real property, regardless of the time such items are considered fixtures.
 - b. Any additional property and equipment for which the County can reasonably demonstrate established ownership rights.
2. Property and equipment owned solely by the City at the start of this Agreement includes, but is not limited to the following:
 - a. Any property and equipment for which the City can reasonably demonstrate established ownership rights.

B. Property Owned Jointly by the County and City.

If this Agreement is terminated for any reason, any property and equipment: (1) acquired or purchased by the Department, whether before or after this Agreement was entered into; or (2) via joint funding by the parties, said property and equipment shall be distributed to the City and County such that each party receives fifty percent (50%) of the present fair market value of said property. The City and County may agree to receive their fifty percent (50%) fair market value shares in cash, property and equipment, or agreed upon combination of cash, property and equipment.

C. Presumption of Jointly Owned Property and Equipment.

For purposes of this Agreement, any property and equipment for which neither party can reasonably establish ownership rights, whether before or after the effective date of this Agreement, shall be considered property that is jointly

owned. Either party can overcome the presumption of jointly owned property and equipment through prior receipts, invoices, purchase orders, or other documentation which indicates that the party was solely responsible for the purchase or receipt of such property and equipment.

16. Planning Matters - prior action and pending proceedings. All planning and zoning actions of every kind or character heretofore taken by the Wichita City Planning Commission, the Sedgwick County Planning Commission, and the Wichita-Sedgwick County Metropolitan Area Planning Commission as it existed prior to this Agreement, shall be continued in full force and effect and shall in no way be affected by the joint resolution and ordinance or this Agreement. All petitions for zoning change, petitions for vacation of streets, alleys and other public ways, requests for changes in street names, requests for approval of plats and dedications, master or comprehensive plans, and all other matters pending before the Wichita-Sedgwick County Metropolitan Area Planning Commission upon the effective date of the joint resolution-ordinance and this Agreement shall continue to be processed by said Commission before which such applications may be pending until such matters are concluded. Furthermore, any actions previously taken by the Wichita-Sedgwick County Metropolitan Area Planning Commission, the City, and the County as a result of joint planning and zoning are hereby ratified by the City and County, to the extent that such actions apply within their respective jurisdictions.

17. Effect of This Agreement. This Agreement supersedes and replaces any previous agreements between the parties concerning the Commission and the Department, and any joint planning.

18. Compliance with K.S.A. 12-2901, et seq. Upon execution of this Agreement it shall be sent to the Kansas Attorney General for approval pursuant to K.S.A. 12-2904. Following approval by the Attorney General, or, lacking any rejection ninety (90) days after the receipt of the Agreement by the Attorney General, this Agreement will be filed with the Sedgwick County Register of Deeds and the Kansas Secretary of State.

19. Governing Law. This Agreement shall be governed by the laws of the State of Kansas.

20. Amendment. An amendment to this Agreement must be in writing and approved by the governing bodies for the City and County, and subsequently approved by the Kansas Attorney General pursuant to K.S.A. 12-2904.

21. Severability. If any part of this Agreement shall be held or determined to be unenforceable, the remaining provisions shall continue in full force and effect.

PASSED by the governing body of the CITY OF WICHITA, KANSAS, this _____
day of _____, 2016.

JEFF LONGWELL, Mayor

ATTEST:

KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

JENNIFER L. MAGAÑA, City Attorney

APPROVED THE ____ DAY OF _____, 2016 BY:

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

JAMES M. HOWELL, Chairman

ATTEST:

KELLY B. ARNOLD, County Clerk

APPROVED AS TO FORM:

ERIC R. YOST,
County Counselor

APPROVED this _____ day of _____, 2016, pursuant to K.S.A. 12-2904, by:

DEREK SCHMIDT, KANSAS ATTORNEY GENERAL

ORDINANCE NO. 50-313

Date Adopted by City of Wichita: September 6, 2016

Date Published by City of Wichita: September 9, 2016

RESOLUTION NO.

Date Adopted by Sedgwick County: _____

Date Published by Sedgwick County: _____

JOINT ORDINANCE AND RESOLUTION BETWEEN THE CITY OF WICHITA, KANSAS, AND THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, REGARDING JOINT PLANNING POWERS, DUTIES, AND FUNCTIONS, AND APPROVING AN INTERLOCAL AGREEMENT.

WHEREAS, pursuant to K.S.A. 12-744(c), a city and county may enter into an agreement providing for joint planning cooperation, and formation of a joint planning commission; and

WHEREAS, pursuant to K.S.A. 12-744(a), the number of members of a planning commission may be determined by ordinance or resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AND ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS THAT:

SECTION 1. Interlocal Agreement. Pursuant to K.S.A. 12-744(c) and K.S.A. 12-2901, *et seq.*, the governing bodies of the City of Wichita, Kansas (“City”) and Sedgwick County, Kansas (“County”) agree to enter into an agreement (“Interlocal Agreement”) to cooperate in the performance of joint planning powers, duties, and functions, and to establish a joint planning commission. Such joint activities extend to matters identified within K.S.A. 12-741, *et seq.*, as amended, and shall include the entirety of both parties’ geographical planning and zoning jurisdictions.

SECTION 2. Number of Members of the Metropolitan Area Planning Commission. Pursuant to K.S.A. 12-744, this Joint Ordinance and Resolution establishes that the Metropolitan Area Planning Commission (“Commission”), as described in more detail within the Interlocal Agreement, shall consist of fourteen (14) members, seven (7) of whom shall be appointed by the Mayor of the City by and with the consent of the City Council, and seven (7) of whom shall be appointed by a majority vote of the Board of County Commissioners, upon the recommendation of each individual County Commissioner for five (5) members and with two (2) at-large members.

SECTION 3. Effect of Joint Ordinance and Resolution. Pursuant to K.S.A. 12-2904(b), this Joint Ordinance and Resolution indicates approval by both governing bodies to enter into the Interlocal Agreement. The Interlocal Agreement will then be submitted to the Kansas Attorney General for approval pursuant to K.S.A. 12-2904(g). After approval by the Attorney General, the Interlocal Agreement will be filed with the Sedgwick County Register of Deeds and the Kansas Secretary of State pursuant to K.S.A. 12-2905.

SECTION 4. Impact on Prior Ordinances, and Resolutions. Any prior ordinances and resolutions for the parties pertaining to their joint planning authority shall be superseded and replaced by this Joint Ordinance and Resolution after the Interlocal Agreement has been approved by the Kansas Attorney General and filed with the Sedgwick County Register of Deeds and the Kansas Secretary of State, as described in the preceding section.

SECTION 5. Publication. This Joint Ordinance and Resolution shall be published once in the official County and City newspaper(s) upon adoption by both governing bodies.

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PASSED by the governing body of the CITY OF WICHITA, KANSAS, this _____
day of _____, 2016.

JEFF LONGWELL, Mayor

ATTEST:

KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

JENNIFER L. MAGAÑA, City Attorney

Commissioners present and voting were:

DAVID M. UNRUH	_____
TIM R. NORTON	_____
KARL PETERJOHN	_____
RICHARD RANZAU	_____
JAMES M. HOWELL	_____

Dated this _____ day of _____, 2016.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD, County Clerk

JAMES M. HOWELL, Chairman
Commissioner, Fifth District

RICHARD RANZAU, Chair Pro Tem
Commissioner, Fourth District

APPROVED AS TO FORM:

ERIC R. YOST,
County Counselor

DAVID M. UNRUH
Commissioner, First District

TIM R. NORTON
Commissioner, Second District

KARL PETERJOHN
Commissioner, Third District

Second Reading Ordinances for August 23, 2016 (First read August 16, 2016)

ORDINANCE NO. 50-306

Encroachment Ordinance

ORDINANCE NO. 50-307

Building Façade Improvements at 100 S. Market

ORDINANCE NO. 50-308

Amending Chapter 6.02.020 and 6.02.030 Animal Control Advisory Board

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

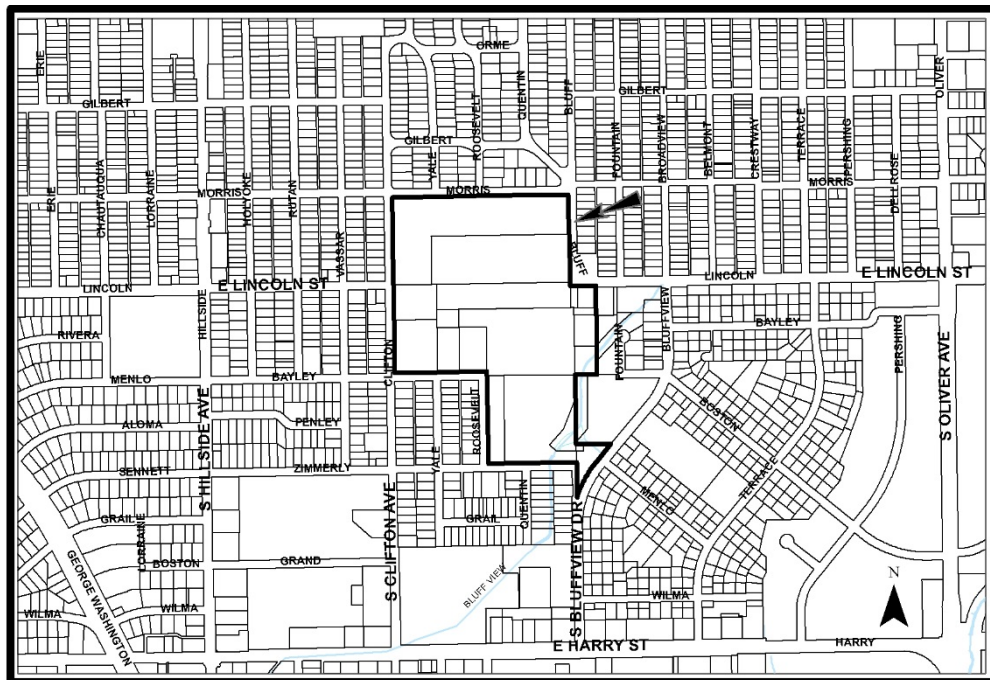
SUBJECT: SUB2015-00019 -- Plat of Sisters of St. Joseph 7th Addition Located North of East Harry Street, East of South Hillside Avenue (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (13-0)



Background: The site consists of one lot on 49.3 acres. A zone change (PUD2015-00003) has been approved from Multi-Family Residential (B), Two-Family Residential (TF-3), General Office (GO) and General Commercial (GC) to Planned Unit Development (PUD#45).

Analysis: Water and sewer services are available to serve the site. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance responsibilities of the reserves being platted. The applicant has submitted a Notice of PUD identifying the approved PUD and special conditions for development.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Financial Considerations: There are no financial considerations associated with the plat.

Legal Considerations: The Law Department has reviewed and approved the Restrictive Covenant and Notice of PUD as to form and the documents will be recorded with the Register of Deeds.

The Law Department has reviewed and approved the Ordinance as to form.

Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and place the Ordinance on first reading. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Attachments: Restrictive Covenant
Notice of PUD
Ordinance

RESTRICTIVE COVENANT

THIS DECLARATION is made this 28th day of July, 2016, by The Sisters of St. Joseph of Wichita, Kansas, a Kansas not-for-profit corporation, hereinafter called "Declarants",

WITNESSETH

WHEREAS, Declarants are the owners of the following described property:

SISTERS OF ST. JOSEPH 7TH ADDITION
Lot 1, Block A

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserve "A", Sisters of St. Joseph 7th Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarants hereby declare and covenant:

1. Reserve "A" is hereby reserved for landscaping, sidewalks, open space, lakes, drives, drainage purposes and utilities as confined to easements.
2. Reserve "A" shall be owned and maintained by the owner of Lot 1, Block A.
3. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserve, as defined, for the purposes of maintaining such Reserve. This easement is conditioned upon the following event or events happening:

A. That the Declarants or the Lot Owner, as may be appropriate, has failed to maintain the reserve in a reasonable and prudent manner.

and,

B. That the appropriate governing body has given written notice to the Declarants or the Lot Owner and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarants or Lot Owner shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the

rendering of an account, the costs shall be considered an assessment against Lot 1, Block A, in Sisters of St. Joseph 7th Addition, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lot 1, Block A, SISTERS OF ST. JOSEPH 7TH ADDITION, Wichita, Sedgwick County, Kansas.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first written.

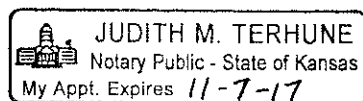
The Sisters of St. Joseph of Wichita, Kansas

By: Sister Margaret Nugent
Sister Margaret Nugent,
Assistant Secretary

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 28th day of July, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Sister Margaret Nugent, Assistant Secretary of The Sisters of St. Joseph of Wichita, Kansas, a Kansas not-for-profit corporation, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-17)

Approved as to form:

Jennifer Magaña, City Attorney and Director of Law

NOTICE OF PLANNED UNIT DEVELOPMENT

THIS NOTICE made this 28th day of July, 2016, by The Sisters of St. Joseph of Wichita, Kansas, a Kansas not-for-profit corporation, hereinafter called "Declarants",

WITNESSETH

WHEREAS, Declarants are the owners of the following described property:

SISTERS OF ST. JOSEPH 7TH ADDITION

Lot 1, Block A

and

WHEREAS, Declarants are desirous to file notice that a planned unit development plan approved by the Wichita City Council is on file with the Metropolitan Area Planning Department, known as Sisters of St. Joseph Planned Unit Development (PUD-45).

NOW, THEREFORE, the Declarants want to make notice that the approved community unit plan has placed restrictions on the use and requirements on the development of the above described real property.

The Metropolitan Area Planning Department is located on the 10th Floor, City Hall, Wichita, Kansas, (316) 268-4421.

The planned unit development shall be binding on the owners, their heirs, or successors or assigns and is a document running with the land and is binding on all successors in title to Lot 1, Block A, Sisters of St. Joseph 7th Addition, Wichita, Sedgwick County, Kansas.

EXECUTED the day and year first written above.

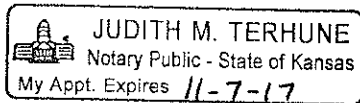
The Sisters of St. Joseph of Wichita, Kansas

By: Sister Margaret Nugent
Sister Margaret Nugent,
Assistant Secretary

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 28th day of July, 2016,
before me, the undersigned, a Notary Public, in and for the County and State
aforesaid, came Sister Margaret Nugent, Assistant Secretary of The Sisters of St.
Joseph of Wichita, Kansas, a Kansas not-for-profit corporation, personally known to
me to be the same person(s) who executed the within instrument of writing and such
person(s) duly acknowledged the execution of the same on behalf, and as the act and
deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year above written.



Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-17)

Approved as to form:

Jennifer Magaña, City Attorney and Director of Law

Published in The Wichita Eagle on _____

ORDINANCE NO. 50-309

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

**BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.**

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. PUD2015-00003

Zone change request from Multi-Family Residential (B), Two-Family Residential (TF-3), General Office (GO) and General Commercial (GC) to Planned Unit Development (PUD#45) on property described as:

Sisters of St. Joseph 7th Addition, Wichita, Sedgwick County, Kansas.

Generally located north of East Harry Street, East of South Hillside Avenue.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 6th day of September, 2016.

ATTEST:

Karen Sublett, City Clerk

Jeff Longwell, Mayor

(SEAL)

APPROVED AS TO FORM:

Jennifer L. Magana, Director of Law

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: ZON2016-00025 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located on the Southeast Corner of West 2nd Street North and North Baehr Street (District VI)

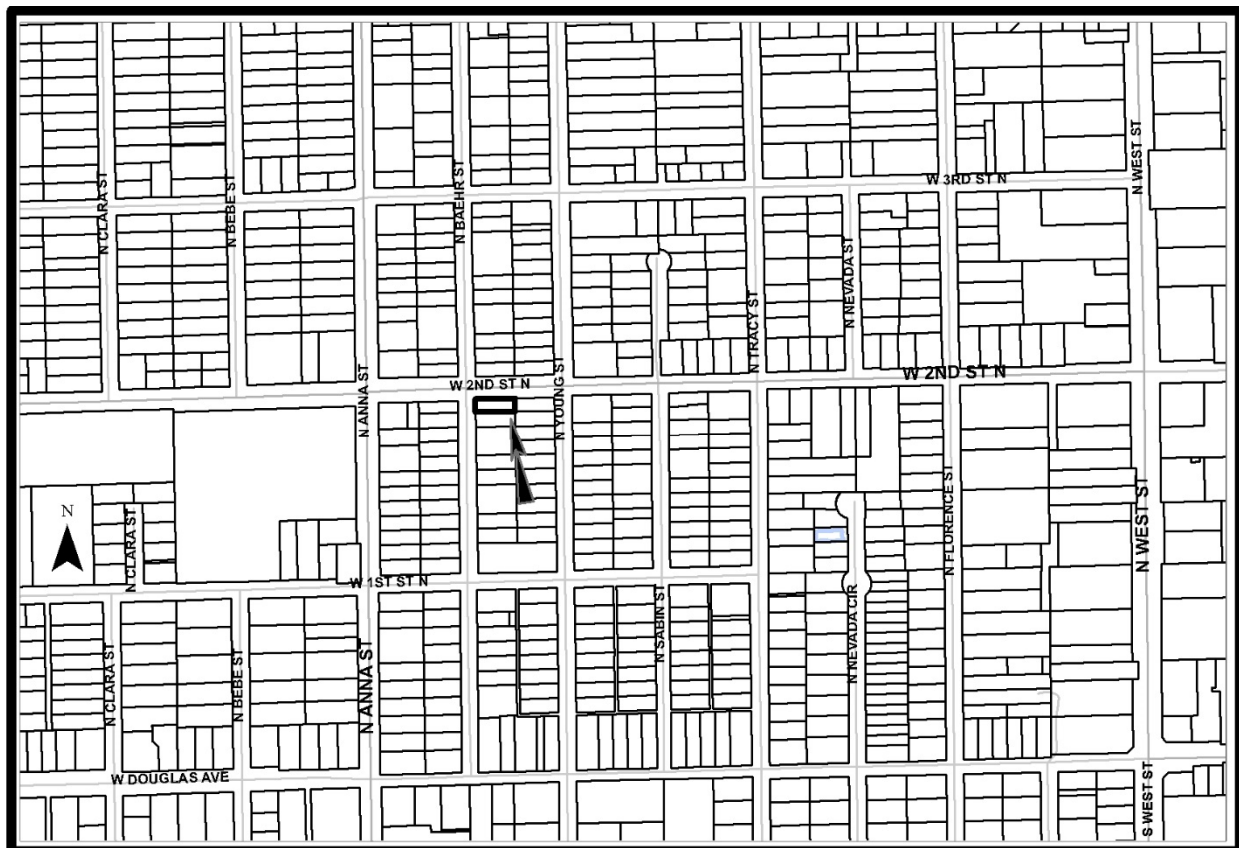
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (13-0) subject to staff and DAB recommended conditions.

DAB Recommendation: District Advisory Board VI recommended approval of the request (8-0) subject to staff recommendations.

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request subject to the conditions in the staff report.



Background: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a 0.14-acre platted lot. The vacant, corner lot has 50 feet of frontage along North Baehr Street and 135 feet of frontage along West 2nd Street North. If approved, the TF-3 zoning would permit the parcel to be developed with a duplex. The applicant intends to develop a duplex on the site.

The surrounding neighborhood is primarily zoned SF-5 Single-Family Residential (SF-5) and developed with single-family residences. However, over a dozen lots of TF-3 zoning exist within this neighborhood between Clara Street and Florence Street along 2nd Street North. North of the site on 2nd Street North are SF-5 and TF-3 zoned single- and two-family residences. East, south and west of the site are SF-5 zoned single-family residences.

Analysis: On July 21, 2016, the Metropolitan Area Planning Commission (MAPC) approved the request (13-0) subject to staff recommended conditions. No members of the public spoke at the MAPC hearing.

On July 20, 2016, District Advisory Board (DAB) III reviewed the application and approved it 8-0 subject to staff recommended conditions.

No protest petitions have been received. The request can be approved with a simple majority vote.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first ready, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachments: Ordinance, MAPC minutes, DAB VI report.

ORDINANCE NO. 50-310

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2016-00031

City zone change from Single-Family Residential (SF-5) to MF-18 Multi-Family Residential; described as:

Lot 24, Block 10, Orchard Park Addition to Wichita, Sedgwick County, Kansas.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magaña, City Attorney and Director of Law

**EXCERPT MINUTES OF THE JULY 21, 2016 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: ZON2016-00025 - Ast Investments, c/o Kelly Ast (applicant/owner) and Stephen M. Joseph (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lots 28, 29 and 30 together with the half vacated alleys adjacent on the North and East, Block B, Bomhoff Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial zoned site is located east of South Southeast Boulevard/Kansas Highway K-15 on the north side of East Pawnee Avenue. Currently the west portion of a 3,960-square foot one-story commercial strip building (built 1955) advertises itself as Whisky Jacks. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. TF-3 Two-Family Residential and SF-5 Single-Family Residential (SF-5) zoned properties abut the north side of the site. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. However the applicant has stated that the site has been either a tavern, drinking establishment or nightclub most of its time (from 1955 to the present), with the longest tenured being called the Golden Knight. The site currently does not have a liquor or entertainment license and is vacant. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC and to obtain a liquor and entertainment license.

The applicant's site plan is an aerial. The aerial does not show marked parking spaces, but a trip to the site showed maybe 23 barely discernable parking spaces; 10 parking spaces on the north and south sides of the site and three parking spaces on the east side of the site. The proposed nightclub shares the 3,960-square foot one-story commercial strip building with a Chinese restaurant. The occupancy rate of the nightclub may be 84 and the occupancy rate for the restaurant may be 40; the applicant will confirm these occupancy rates. Based on these tentative occupancy rates the total parking required for the nightclub is 42 parking spaces (one space per two occupants) and 14 parking spaces (one space per three occupants) for the restaurant for a total of 56 parking spaces, which is 31 parking short of the required parking for this site. The applicant will need to apply for either a variance, an off-street parking agreement or a combination of the two to meet the UZC's parking standards. The UZC requires off-street parking space to be located no more than 600 feet from the building or use it is intended to serve, measured along the shortest legal, practical walking route. The aerial does not show the wooden fence that separates the site from the north abutting TF-3 and SF-5 zoned single-family residences. The staff's trip to the site showed no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on -ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

LC zoned businesses are located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The LC zoned

business include a Burger King (built 1996) and Spangles (built 1986) fast food restaurants, a Mexican restaurant (built 1956), a Chinese restaurant, a commercial box partially occupied by a Doller General retail store (formerly Howards Grocery and then Checkers Grocery, built 1968), Big Bob's flooring outlet (built 1956) a self-serve laundry service (built 1957), pay day loan (built 1999), a liquor store (built 1967), and a car wash(built 1966). Two SF-5 zoned single-family residences (built 1930s) are located east of the site along Pawnee Avenue. A TF-3 and SF-5 zoned single-family residences (built mostly mid-1950s, part of a SF-5 single-family residential neighborhood) abut the north side of the site. The nearest nightclub or drinking establishment is located approximately a quarter-mile west of the site at 1507 and 1527 East Pawnee Avenue. A Conditional Use, CON2016-00030, is scheduled later this year for 1507 and 1527 East Pawnee Avenue.

CASE HISTORY: The site is located on Lots 28, 29 and 30 together with the half vacated alleys adjacent on the north and east, Block B, Bomhoff Addition, which was recorded with the Register of Deeds January 23, 1953. Oral history of the site indicates the site has been a drinking establishment or a nightclub off and on since the late 1950s with the longest tenured being called the Golden Knight. The site currently does not have a liquor or entertainment license and is vacant.

ADJACENT ZONING AND LAND USE:

NORTH: LC, TF-3, SF-5	Flooring outlet store, self-serve laundry service, single-family residences
SOUTH: LC, MF-29, SF-5	Fast food restaurant, retail box, single-family residences
EAST: LC, SF-5	Restaurant, fast food restaurant, pay day loan, liquor store, car wash, single-family residence
WEST: LC	Self-serve laundry service, fast food restaurant, K-15 highway

PUBLIC SERVICES: The site has access off the paved four-lane, with a center turn lane, arterial Pawnee Avenue. Pawnee Avenue intersects with the major arterial Southeast Boulevard/K-15 highway located approximately 270 feet west of the site and the I-135 interchange located approximately 850 feet east of the site. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "Community Investment Plan's" (Plan, adopted November 19, 2015) shows the site located within the "Established Central Area." This area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

The "Community Investment Plan's 2035 Wichita Future Growth Map" depicts the site as "commercial." The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC zoned businesses located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The proposed nightclub is small enough to be considered a local business that will generate less traffic than the area's two fast food restaurants. SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the north abutting single-family residential neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. There is no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on-ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

RECOMMENDATION: If approved the request would re-establish a drinking establishment – nightclub on the site. Typically in the older neighborhoods, parking is a critical consideration for recommending approval as is the proximity of a church or place of worship, public park, public or parochial school or residential zoning district. The site does not have the required parking spaces. The applicant will need to apply for either a variance, off-street parking agreements or a combination of the two to meet the UZC's parking standards. It is unknown how the site's past history as a drinking establishment or nightclub will affect the neighbors' opinion of the current application. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north abutting SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, the solid wooden fence, and a rail to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way. No outdoor seating, outdoor speakers or outdoor entertainment is permitted. The site plan must be submitted for review within 60-days of approval by the appropriate governing body.
- (2) The use of the site as a nightclub shall not be permitted until the applicant confirms the occupancy rates of the nightclub and the restaurant.
- (3) The use of the site as a nightclub shall not be permitted until the applicant provides written agreements for 31 off-site or shared parking, a variance is approved or a combination of the two. The amount of needed off-site parking is subject to change based on the confirmation of the occupancy rates of the nightclub and the restaurant.
- (4) The use of the site as a nightclub shall not be permitted until the parking lot is restriped and a metal rail is installed along the site's Pawnee Avenue frontage.
- (5) The use of the site as a nightclub shall not be permitted until dumpsters are located 20 feet from the north abutting SF-5 zoned properties and solid screening (as defined in the UZC) with solid screening gates are installed around the dumpsters.
- (6) The applicant shall obtain all required state, local and other applicable permits and inspections.

- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** LC zoned businesses are located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The LC zoned business include a Burger King (built 1996) and Spangles (built 1986) fast food restaurants, a Mexican restaurant (built 1956), a Chinese restaurant, a commercial box partially occupied by a Doller General retail store (formerly Howards Grocery and then Checkers Grocery, built 1968), Big Bob's flooring outlet (built 1956) a self-serve laundry service (built 1957), pay day loan (built 1999), a liquor store (built 1967), and a car wash(built 1966). Two SF-5 zoned single-family residences (built 1930s) are located east of the site along Pawnee Avenue. A TF-3 and SF-5 zoned single-family residences (built mostly mid-1950s, part of a SF-5 single-family residential neighborhood) abut the north side of the site. The nearest nightclub or drinking establishment is located approximately a quarter-mile west of the site at 1507 and 1527 East Pawnee Avenue.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would re-establish a drinking establishment – nightclub on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the residential neighborhood.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "Community Investment Plan's" (Plan, adopted November 19, 2015) shows the site located within the "Established Central Area." This area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

The "Community Investment Plan's 2035 Wichita Future Growth Map" depicts the site as "commercial." The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large

urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC zoned businesses located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The proposed nightclub is small enough to be considered a local business that will generate less traffic than the area's two fast food restaurants. SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. There is no vehicular or pedestrian access from the site to the north abutting single-family residential neighborhood, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. There is no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

- (5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.

KATHY MORGAN, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

RAMSEY moved, **RICHARDSON** seconded the motion, and it carried (13-0).



**INTEROFFICE
MEMORANDUM**

TO: MAPC
FROM: Martha Sanchez, Community Service Representative, District VI
SUBJECT: ZON2016-00025
DATE: July 21, 2016

On Wednesday, July 20, 2016, the District VI Advisory Board considered a request for a zoning change from SF-5 Single-family Residential to TF-3 Two-family residential, generally located south of West 2nd Street North and east of North Baehr (4629 W. 2nd St. N.).

Recommended Action: Planning staff recommends the request for zoning change be approved upon information available prior to the public hearings and based on five findings listed in the staff report.

The DAB members were provided with the MAPD staff report with a recommendation to approve.

The DAB members voted (8-0) to recommend approval of the request recommended for a zoning change to TF3-Two-family residential.

Please review this information when **ZON2016-00025** is considered.

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: ZON2016-00029 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located North of West 55th Street South and East of Seneca Street (District IV)

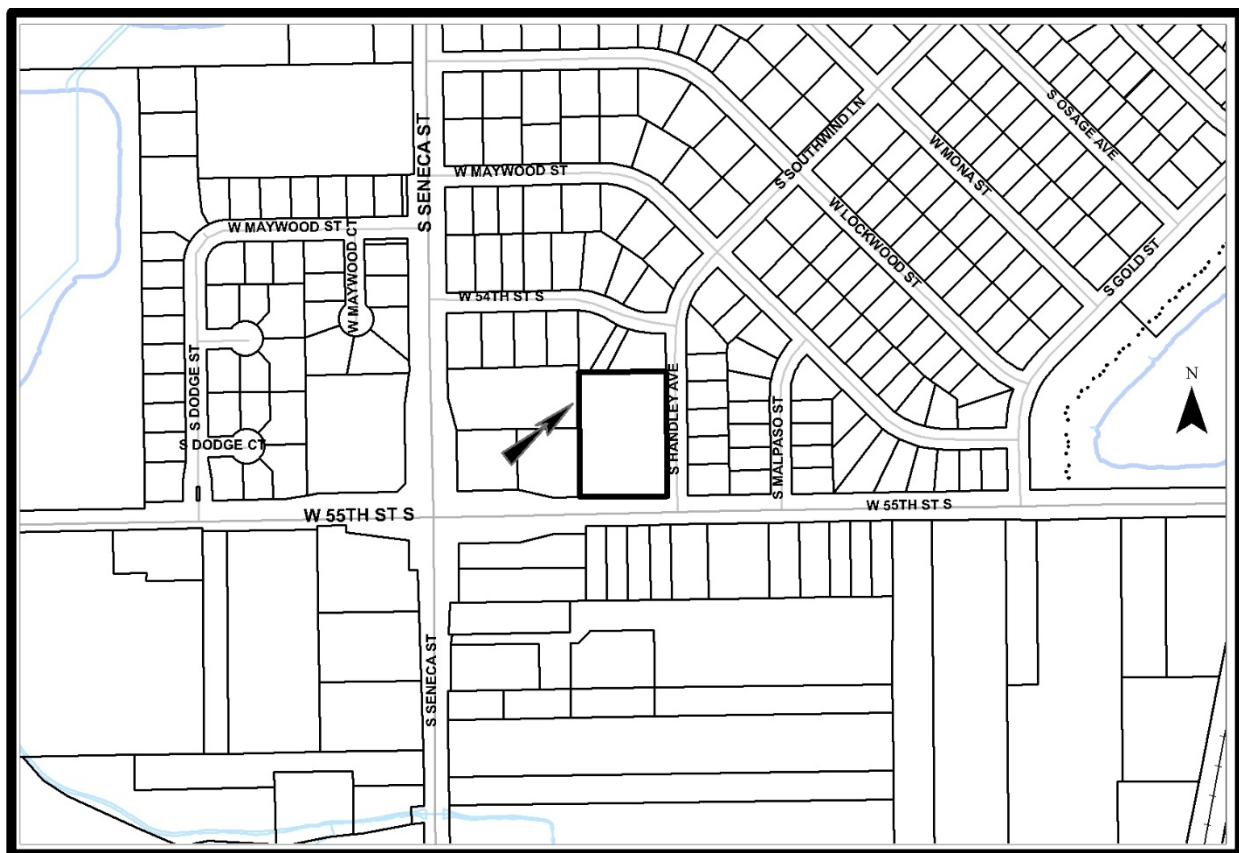
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (13-0) subject to staff recommended conditions.

DAB Recommendation: District Advisory Board IV recommended approval of the request (9-0) subject to staff recommendations.

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request subject to the conditions in the staff report.



Background: The applicant requests TF-3 Two-Family Residential zoning on a 2.40-acre unplatted lot. The vacant, corner lot has 255 feet of frontage along West 55th Street and 355 feet of frontage along South Handley Avenue. The applicant intends to develop duplexes on the site. The subject property will have to be platted into multiple lots to develop more than a single duplex on the property.

The surrounding neighborhood is primarily developed with residential uses. West of the site is LC Limited Commercial zoning, north of the site is MF-29 Multi-family zoning and east of the site is TF-3 zoning, which are all developed with duplexes. South of the site is LC and SF-5 zoning developed with single-family residences.

Analysis: On July 21, 2016, the Metropolitan Area Planning Commission (MAPC) approved the request (13-0) subject to staff recommended conditions. No members of the public spoke at the MAPC hearing.

On August 1, 2016, District Advisory Board (DAB) IV reviewed the application and approved it 9-0 subject to staff recommended conditions.

No protest petitions have been received. The request can be approved with a simple majority vote.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first ready, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachments: Ordinance, MAPC minutes, DAB IV report.

ORDINANCE NO. 50-311

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2016-00029

City zone change from Single-Family Residential (SF-5) to TF-3 Two-Family Residential; described as:

Beginning 429 feet East of the Southwest corner of the Southwest Quarter of Section 20, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence North 410 feet; thence East 285 feet; thence south 410 feet; thence West 285 feet to the point of beginning; EXCEPT the East 30 feet and South 50 feet thereof for street.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magaña, City Attorney and Director of Law

**EXCERPT MINUTES OF THE JULY 21, 2016 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: ZON2016-00029 - Michael and Iris McCready (owners/applicants) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot 1, Maple Hill Addition, Sedgwick County, Kansas.

BACKGROUND: The applicants request a conditional use for an “accessory apartment” on the southeast corner of West platted SF-5 Single-Family Residential zoned lot located on the southwest corner of Maple Street and South Country View Lane. The site is developed with a 2,208-square foot single-story residence (built 1966) and a large garage. The applicant is converting a portion of the garage into an accessory apartment.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The site is located in an area where Wichita and Sedgwick abut each other. The area the site is located in is zoned SF-5. SF-5 zoned single-family residences abut the south and west sides of the site. SF-5 zoned single-family residences are adjacent, across Country View Lane, to the east side of the site. The single-family residences in these areas were built in the mid to late 1960s up to as recently as 2007. SF-5, SF-20 Single-Family Residential and RR Rural Residential zoned properties are located north of the site, across Maple Street. Development in the area north of the site include partially developed urban scale subdivisions (recorded May 8, 2003 & March 15, 2006), two single-family residences (built 1978, 1986) on large tracts and agricultural land. An anomaly to the development in the area is a LC and SF-5 zoned recreational vehicle (RV) campground that may have been established in 1965.

CASE HISTORY: The subject property is described as Lot 1, Maple Hill Addition, which was recorded with the Register of Deeds January 5, 1965.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, SF-20, RR	Single-family residences, large tract single-family residences, agricultural land, RV campground
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. The site has access onto Country View Lane, a sand and gravel residential street. Country View Lane intersects with the paved, two-lane arterial Maple Street.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Future Growth Concept Map” shows the site and the area it is located in as “residential.” The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential- serving uses are located in these areas. The site is located outside of the established central area of Wichita. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.

RECOMMENDATION: The surrounding area has well-established residential land uses. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan, the approved elevation drawing, and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.
2. An approved site plan for the entire lot and an elevation drawing approved by planning staff, indicating dimensions and exterior materials.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located in an area where Wichita and Sedgwick abut each other. The area the site is located in is zoned SF-5. SF-5 zoned single-family residences abut the south and west sides of the site. SF-5 zoned single-family residences are adjacent, across Country View Lane, to the east side of the site. The single-family residences in these areas were built in the mid to late 1960s up to as recently as 2007. SF-5, SF-20 Single-Family Residential and RR Rural Residential zoned properties are located north of the site, across Maple Street. Development in the area north of the site include partially developed urban scale subdivisions (recorded May 8, 2003 & March 15, 2006), two single-family residences (built 1978, 1986) on large tracts and agricultural land. An anomaly to the development in the area is a LC and SF-5 zoned recreational vehicle (RV) campground that may have been established in 1965.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 which permits the existing single-family residence. The SF-5

zoning is characteristic of the area's zoning. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2035 Wichita Future Growth Concept Map" shows the site and the area it is located in as "residential." The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential- serving uses are located in these areas. The site is located outside of the established central area of Wichita. An accessory apartment may be considered as a conditional use in the SF-5 zoning district, which is a common request.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

KATHY MORGAN, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

RAMSEY moved, **RICHARDSON** seconded the motion, and it carried (13-0).



**INTEROFFICE
MEMORANDUM**

TO: City Council

FROM: Rebecca Fields, Office of Community Services

SUBJECT: ZON2016-00029 – a City Zone request regarding a TF-3 Two-Family Residential zoning on a 2.40-acres unplatted lot. The vacant, corner lot has 255 feet of frontage along West 55th Street and 355 feet of frontage along S. Handley Avenue. The applicant intends to develop duplexes on the site. The subject property will have to be platted into multiple lots to develop more than a single duplex on the property. This area is generally located east of south Seneca on west 55th Street South (1000 W 55th St S).

DATE: August 2, 2016

On Monday, August 1, 2016, the District IV Advisory Board considered a request to approve a TF-3 Two-Family Residential by City Council as the MAPD had already approved the request on July 21, 2016.

Due to there being other duplexes nearby and that no one was present to object, a motion was made to **approve** by DAB IV Member Nick Hoheisel, and Kit Corby made the 2nd. Motion carried 9-0.

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

SUBJECT: ZON2016-00031 – Zone Change from SF-5 Single-Family Residential to MF-18 Multi-Family Residential, Generally Located at the Northwest Corner of West 2nd Street North and North Elizabeth Street (District VI)

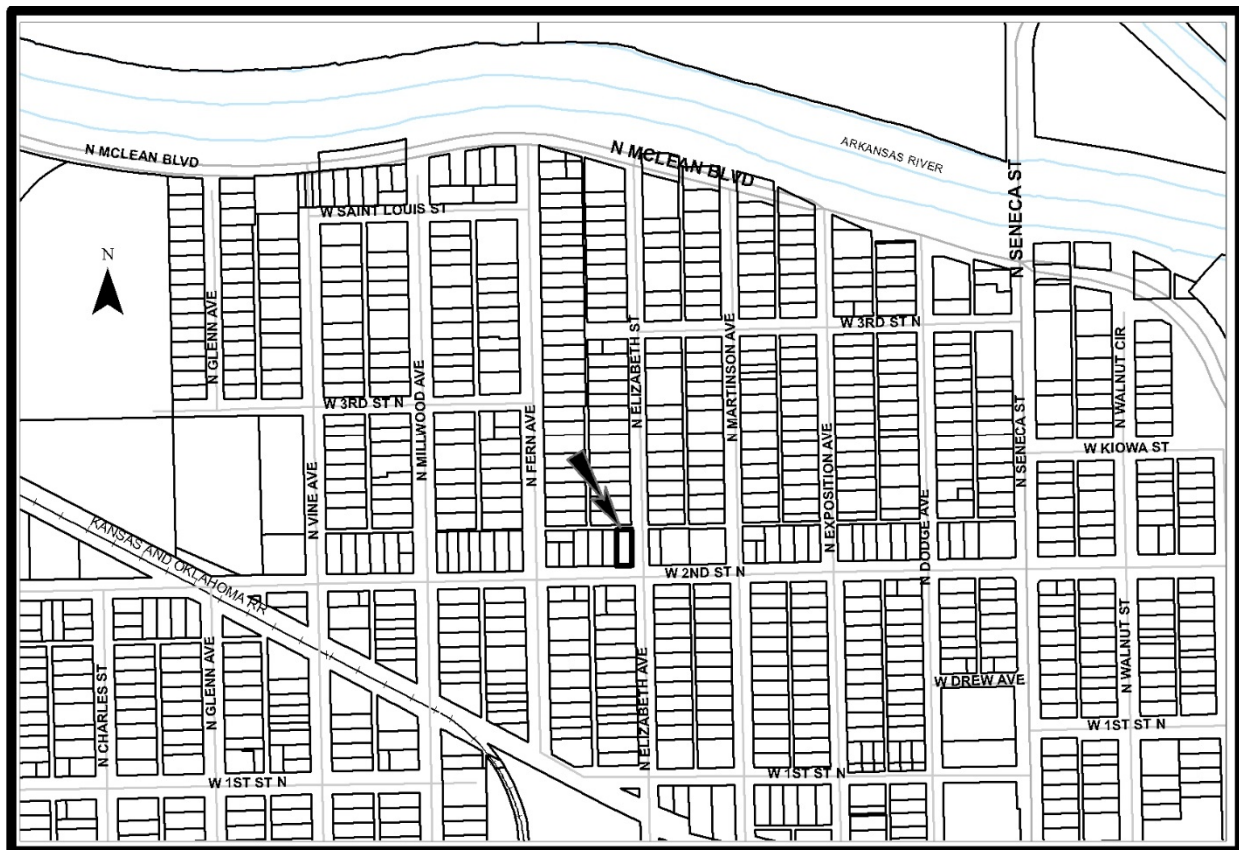
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (10-0) subject to staff and DAB recommended conditions.

DAB Recommendation: District Advisory Board IV recommended approval of the request (8-0) subject to staff recommendations.

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request subject to the conditions in the staff report.



Background: The applicant requests MF-18 Multi-Family zoning on a 0.14-acre platted lot. The two single-family residences on the lot were built in 1919 (1502 W. 2nd) and 1920 (309 N. Elizabeth). The applicant intends to remodel/update the two structures on the lot. The lot meets the Unified Zoning Code (UZO) minimum lot dimensions and size for MF-18 zoning.

The surrounding neighborhood is primarily zoned SF-5 Single-Family Residential (SF-5) and developed with single-family residences. However, several lots within a five-block area are zoned MF-18. The site was platted as lots 33 and 35 of the Walter Morris & Sons 3rd Addition in 1922. Both residential structures pre-date the platting of the addition creating a non-conforming use in SF-5 zoning.

Analysis: On July 21, 2016, the Metropolitan Area Planning Commission (MAPC) approved the request (10-0) subject to staff recommended conditions. No members of the public spoke at the MAPC hearing.

On July 20, 2016, District Advisory Board (DAB) VI reviewed the application and approved it 8-0 subject to staff recommended conditions.

No protest petitions have been received. The request can be approved with a simple majority vote.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachments: Ordinance, MAPC minutes, DAB VI report.

ORDINANCE NO. 50-312

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2016-00031

City zone change from Single-Family Residential (SF-5) to MF-18 Multi-Family Residential; described as:

Lots 33-35, on First Street (Now 2nd Street), Walter Morris & Sons 3rd Addition to Wichita, Sedgwick County, Kansas.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magaña, City Attorney and Director of Law

**EXCERPT MINUTES OF THE JULY 21, 2016 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: ZON2016-00031 - TMR Partners, Attn: Samantha Allen (owner) requests a City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential on property described as:

Lots 33 and 35, on First Street, now Second Street, Walter Morris and Son's 3rd Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests MF-18 Multi-Family zoning on a 0.14-acre platted lot. The two single-family residences on the lot were built in 1919 (1502 W. 2nd) and 1920 (309 N. Elizabeth). The applicant intends to remodel/update the two structures on the lot. The lot meets the Unified Zoning Code (UZC) minimum lot dimensions and size for MF-18 zoning.

The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. However, lots within a five-block area are zoned MF-18. These properties are located south of W. 2nd between Martinson and Glenn.

CASE HISTORY: The site was platted as lots 33 and 35 of the Walter Morris & Sons 3rd Addition in 1922. Both residential structures pre-date the platting of the addition creating a non-conforming use in SF-5 zoning.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: West 2nd Street is a paved, two-lane local street at this location with a 70-foot right-of-way. North Elizabeth is a paved, two-lane local street at this location with a 60-foot right-of-way. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the Delano Area Plan. The Plan's 2035 *Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including multi-family, typically found in large urban municipality. The site is located in the Delano Area Plan, which identifies the location for residential development and recommends redevelopment of original structures in the area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. However, lots within a five-block area are zoned MF-18. These properties are located south of W. 2nd between Martinson and Glenn.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and is a non-conforming use with two single-family residential structures. Re-zoning the property to MF-18 would remove the non-conformity.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. The use of the subject property is not proposed to change, other than renovations to improve both houses.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the Delano Area Plan. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including multi-family, typically found in large urban municipality. The site is located in the Delano Area Plan, which identifies the location for residential development and recommends redevelopment of original structures in the area.
- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report.

FOSTER asked if staff considered a lot split.

MORGAN indicated that the lot was not big enough for a lot split. She said you would need 5,000 square feet for each lot.

JOHNSON asked how many units can be built on the site.

MORGAN indicated with MF-18 zoning, a total of 3 units maximum.

TODD clarified that the situation exists as a legal non-conforming use.

MORGAN replied yes.

SAMANTHA ALLEN, AGENT, TMR PARTNERS, 2020 WEST 21ST STREET NORTH said they are trying to insure that if something happens to one of these two houses they will have the financing to rebuild “as is.” She said they want to keep these houses. She said they are old and wonderfully built and their current tenants love them. She said they are not wanting to build a triple, quad-plex or anything similar on the property. She said they were unaware of the zoning issue when they purchased the homes only became aware of a problem when then applied for refinancing.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).



**INTEROFFICE
MEMORANDUM**

TO: MAPC
FROM: Martha Sanchez, Community Service Representative, District VI
SUBJECT: ZON2016-00031
DATE: July 20, 2016

On Wednesday, July 20, 2016, the District VI Advisory Board considered a request for a city zoning change from SF-5 Single-family Residential to MF-18 Multi-family Residential on property generally located north of West 2nd Street and west of North Seneca (1502 W. 2nd and 309 N. Elizabeth).

Recommended Action: Planning staff recommends the request for zoning change be approved upon information available prior to the public hearings and based on five findings listed in the staff report.

The DAB members were provided with the MAPD staff report with a recommendation to approve.

The DAB members voted (8-0) to recommend approval of the request for a zoning change to MF-18 Multi-family Residential.

Please review this information when **ZON2016-00031** is considered.

Agenda Item No. II-22

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

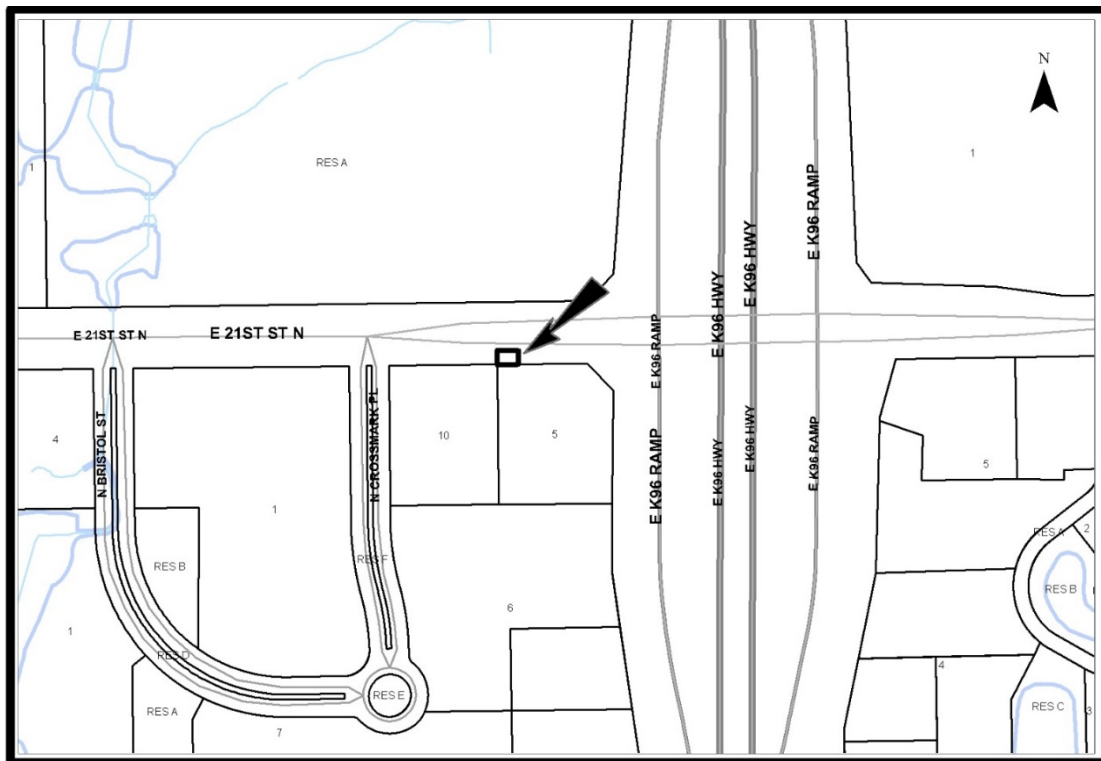
SUBJECT: VAC2016-00017 - Request to Vacate a Portion of Platted Complete Access Control on Property Generally Located on the Southwest Side of East 21st Street North and East Kansas Highway K-96 (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission recommends approval of the vacation request (10-0).



Background: The applicant proposes to vacate 40 feet of the 433.7 feet of platted complete access control located on the northwest property line of Lot 5, Block 1, Cross Pointe 2nd Addition (the subject site). The applicant proposes a right-in-right-out drive onto East 21st Street North. 21st Street North is a paved four-lane, two-way, arterial road at this location. The east end of a full curbed landscaped (grass) median strip lines up with the proposed vacated portion of platted complete access control. The Traffic Engineer has approved the request. There are no public utilities located in the area of the vacation. The Cross Pointe 2nd Addition was recorded with the Sedgwick County Register of Deeds on January 3, 2008.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. The Law Department concurs that the approval of the Vacation Order is in accordance with City policy. The original Vacation Order will be recorded with the Sedgwick County Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order (simple majority of four votes required) and authorize the necessary signatures.

Attachment:

- Vacation Order

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF A PORTION)
A PLATTED COMPLETE ACCESS CONTROL)**

**GENERALLY LOCATED ON THE SOUTHWEST SIDE)
OF EAST 21ST STREET NORTH & EAST KANSAS)
HIGHWAY K-96)**

VAC2016-00017

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 23rd day of August, 2016, comes on for hearing the petition for vacation filed by Slawson East, Inc., c/o Charles Brown, Professional Engineering Consultants (owner/agent), praying for the vacation of the following described portion of a platted complete access control, to-wit:

The West 40 feet of Lot 5, Block 1, Cross Pointe 2nd Addition, Wichita, Sedgwick County, Kansas

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on April 28, 2016, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the described portion of the platted complete access control and the public will suffer no loss or inconvenience thereby.
4. In justice to the petitioner(s), the prayer of the petition ought to be granted.
5. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.
6. The vacation of the described portion of the platted complete access control, should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 23rd day of August, 2016, ordered that the above-described portion of the platted complete access control is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magana, City Attorney and Director of Law

**City of Wichita
City Council Meeting
August 23, 2016**

TO: Mayor and City Council

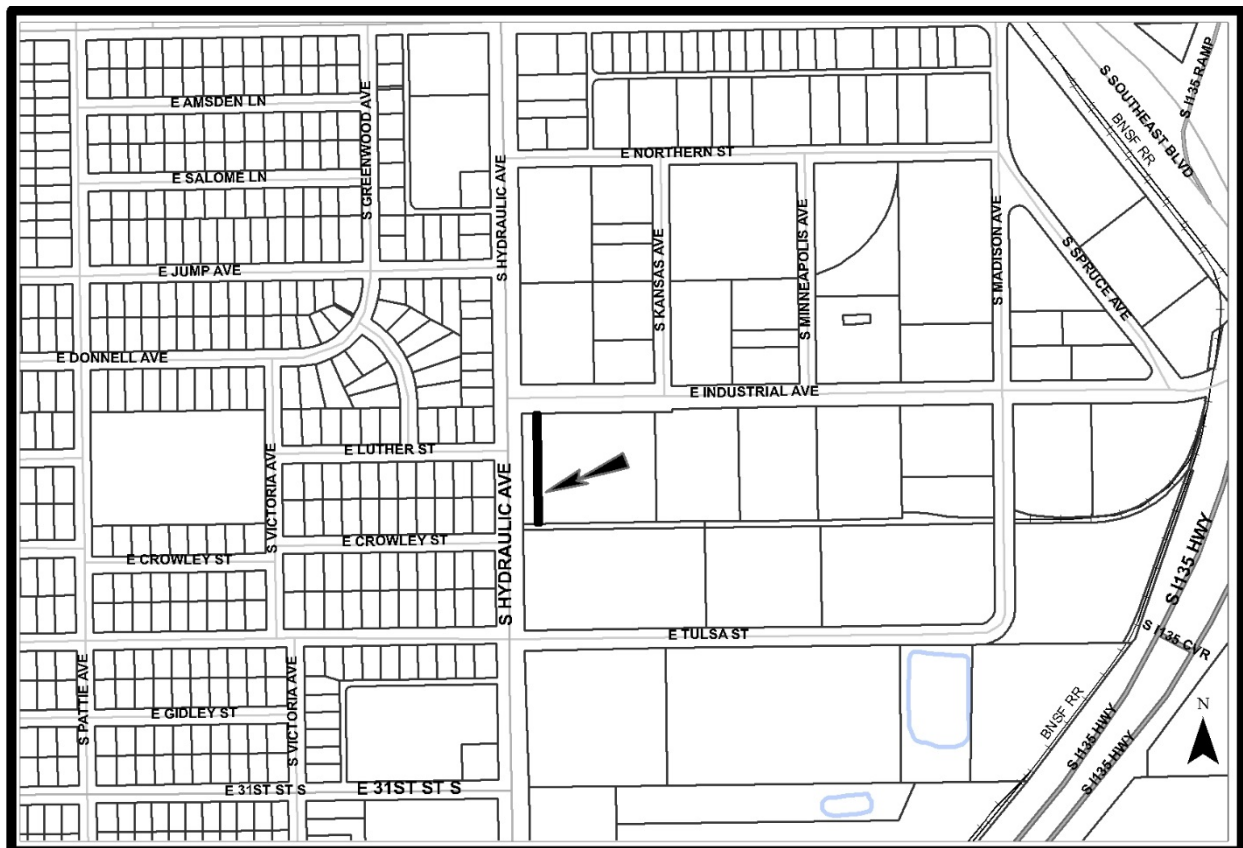
SUBJECT: VAC2016-00019 - Request to Vacate a Portion of a Platted Front Building Setback on Property Generally Located North of South Interstate Highway I-135 on the Southeast Corner of East Industrial Avenue and South Hydraulic Avenue (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission recommends approval of the vacation request (12-0).



Background: The applicant requested the vacation of the east 16 feet of the platted 60-foot front building setback located on and running parallel to the west property line of the LI Limited Industrial (LI) zoned Lot 1, Block A, Western Lithograph 2nd Addition and South Hydraulic Avenue. The site is a corner lot with the short side of the lot being along its Hydraulic Avenue frontage. Per the Unified Zoning Code (UZC) the short side of a corner lot is the front side of the lot. Per the UZC the LI zoning district has a 20-foot minimum front yard setback. The applicant's request reduces the platted 60-foot setback to 44 feet. A 10-foot wide platted easement runs through the south 10 feet of the subject setback; the easement that will remain in effect. There are no utilities located within the platted setback. The Western Lithograph 2nd Addition was recorded April 12, 1985.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. The Law Department concurs that the approval of the Vacation Order is in accordance with City policy. The original Vacation Order will be recorded with the Sedgwick County Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order (simple majority of four votes required) and authorize the necessary signatures.

Attachment:

- Vacation Order

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF A PORTION)
A PLATTED FRONT BUILDING SETBACK)**

**GENERALLY LOCATED NORTH OF SOUTH)
INTERSTATE HIGHWAY I-135 ON THE SOUTHEAST)
CORNER OF EAST INDUSTRIAL AVENUE ON THE)
WEST SIDE OF SOUTH HYDRAULIC AVENUE)**

MORE FULLY DESCRIBED BELOW)

VAC2016-00019

VACATION ORDER

NOW on this 23rd day of August, 2016, comes on for hearing the petition for vacation filed by BANDDL1, LLC, c/o Bennie M. Lee Jr (owner), praying for the vacation of the following described portion of a platted front building setback, to-wit:

The east 16 feet of the platted 60-foot front yard setback located on and running parallel to the west property line of Lot 1, Block A, Western Lithograph 2nd Addition, Wichita, Sedgwick County, Kansas

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on June 16, 2016, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the described portion of the platted front building setback and the public will suffer no loss or inconvenience thereby.
4. In justice to the petitioner(s), the prayer of the petition ought to be granted.
5. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

6. The vacation of the described portion of the platted front building setback, should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 23rd day of August, 2016, ordered that the above-described portion of the platted front building setback are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magana, City Attorney and Director of Law

Agenda Item No. II-24

City of Wichita
City Council Meeting
August 23, 2016

TO: Mayor and City Council

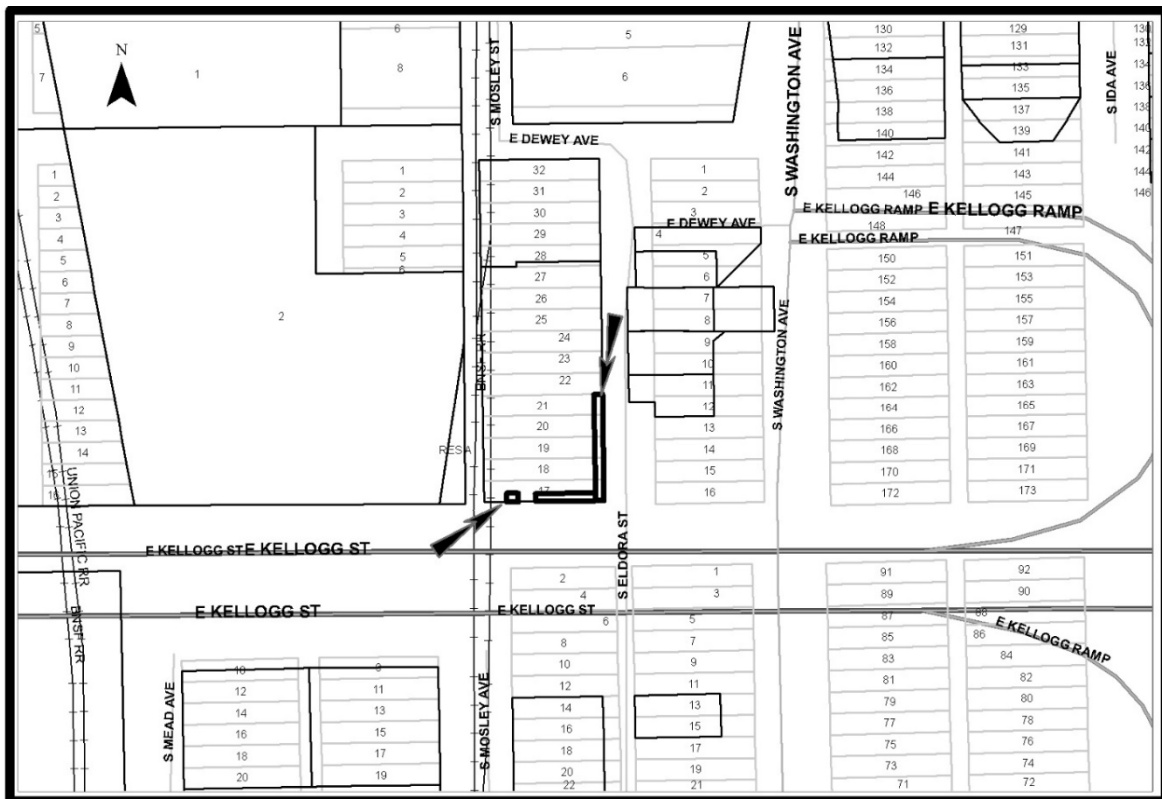
SUBJECT: VAC2016-00027 - Request to Vacate Easements Dedicated by Separate Instruments on Property Generally Located Northwest of East Kellogg Street and South Washington Avenue, on the West Side of the Vacated South Eldora Street (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission recommends approval of the vacation request (13-0).



Background: The applicants are requesting the vacation of a 10-foot wide utility easement dedicated by separate instrument (Ordinance 11-499, Misc. Book 121, page 523) located on and running parallel to the east sides of Lots 17-21, Block 2, Santa Fe Addition and the easement dedicated by separate instrument (Film 403, Page 625) located on and running parallel to portions of the south side of Lot 17, Block 2, Santa Fe Addition. There are no utilities, including the Gilbert-Mosley Groundwater Remediation System, located in the subject easements. VAC2014-00055 vacated this portion of El Dora Street, which was retained as a utility easement. The Santa Fe Addition was recorded November 17, 1884.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. The Law Department concurs that the approval of the Vacation Order is in accordance with City policy. The original Vacation Order will be recorded with the Sedgwick County Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order (simple majority of four votes required) and authorize the necessary signatures.

Attachment:

- Vacation Order

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

IN THE MATTER OF THE VACATION OF UTILITY)	
EASEMENTS DEDICATED BY SEPARATE)	
INSTRUMENTS)	
)	
GENERALLY LOCATED NORTHWEST OF EAST)	VAC2016-00027
KELLOGG STREET AND SOUTH WASHINGTON)	
AVENUE)	
)	
<u>MORE FULLY DESCRIBED BELOW</u>)	

VACATION ORDER

NOW on this 23rd day of August, 2016, comes on for hearing the petition for vacation filed by the BBS Real Estate LLC, c/o Keith Stevens & Universal Motor Fuels Inc, c/o Dennis Maloney (owners/applicants), praying for the vacation of the following described utility easements dedicated by separate easements, to-wit:

Santa Fe Addition Permanent Easement Vacation
Legal Description

A permanent easement designated as (c) in the General Warranty Deed recorded in Film 403, page 625, said permanent easement (c) being specifically described as follows: A PERMANENT EASEMENT for highway right of way and removal of borrow material over and upon a tract of land in Lot 17, Block 2 of Santa Fe Addition to the City of Wichita, Sedgwick County, Kansas, described as follows: BEGINNING at a point on the South line, 26.5 feet East of the Southwest corner of said Lot 17; thence North parallel to the West line of said Lot to a point 15.0 feet South of the North line of said Lot; thence East, 13.5 feet parallel to said North line; thence South to a point on said South line 13.5 feet East of the place of beginning; thence West to the place of beginning, TOGETHER with a permanent easement designated as (d) in the General Warranty Deed recorded in Film 403, page 625, said permanent easement (d) being specifically described as follows: A PERMANENT EASEMENT for highway right of way and removal of borrow material over and upon a tract of land in Lot 17, Block 2 of Santa Fe Addition to the City of Wichita, Sedgwick County, Kansas, described as follows: BEGINNING at a point on the South line 10.0 feet West of the Southeast corner of said Lot 17; thence West 70.0 feet along said South line; thence North parallel to the East line of said Lot to a point 15.0 feet South of the North line of said Lot; thence East, 70.0 feet parallel to said North line; thence South to the place of beginning.
&

Santa Fe Addition Easement Vacation
Legal Description

A tract of land in Santa Fe Addition to Wichita, said tract of land being a portion of the land described in the section of Ordinance No. 11-499 recorded in Misc. Book 121, Page 523 designated as EASEMENT TAKEN, said tract of land in said EASEMENT TAKEN being specifically described in said Ordinance No. 11-499 as follows: The east ten (10) feet of Lots 17, 18, 19, 20, and 21, Topeka Street, Santa Fe Addition, all in the City of Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on June 30, 2016, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the described utility easements dedicated by separate easements and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.
6. The vacation of the described utility easements dedicated by separate easements, should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 23rd day of August, 2016, ordered that the above-described utility easements dedicated by separate easements are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magana, City Attorney and Director of Law